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Thank you!



AN ACT REVISING THE LAWS OF LICENSING FOR INSURANCE PRODUCERS, ADJUSTERS, AND CONSULTANTS; PROVIDING FOR INACTIVE STATUS FOR INSURANCE PRODUCERS SERVING IN THE ARMED FORCES; REQUIRING AN INSURANCE PRODUCER LICENSING BACKGROUND EXAMINATION AND PROVIDING EXAMINATION CRITERIA; DEFINING "CAR RENTAL INSURANCE"; REVISING THE PAYMENT OF FEES FOR LICENSES AND RENEWAL OF LICENSES RELATING TO INSURANCE; REVISING THE STATUS OF NONRESIDENT INSURANCE PRODUCERS; PROVIDING FOR BIENNIAL RENEWAL OF LICENSES AND PAYMENT OF BIENNIAL LICENSE FEES FOR CERTAIN PRODUCERS; SIMPLIFYING THE INSURANCE CONTINUING EDUCATION REQUIREMENTS; AMENDING SECTIONS 33-2-305, 33-2-708, 33-7-525, 33-7-532, 33-17-102, 33-17-103, 33-17-201, 33-17-211, 33-17-212, 33-17-214, 33-17-301, 33-17-502, 33-17-503, 33-17-504, 33-17-1001, 33-17-1002, 33-17-1203, 33-17-1205, AND 33-17-1207, MCA; AND PROVIDING AN EFFECTIVE DATE AND APPLICABILITY DATES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Inactive status -- insurance producers serving in armed forces. (1) The commissioner may place an insurance producer on inactive status if the insurance producer enters active service in the armed forces of the United States.

(2) An insurance producer may not transact the business of insurance while on inactive status.

(3) The commissioner shall waive the continuing education requirements in 33-17-1205 and the fee in 33-2-708 while an insurance producer is on inactive status.

(4) In order to be placed on inactive status, an insurance producer shall notify the commissioner when called to active service.

(5) In order to be taken off inactive status, an insurance producer shall notify the commissioner when discharged from active service.

Section 2. Licensing background examination -- entity registry criteria. (1) (a) Each applicant shall obtain a complete background examination. The applicant or insurer shall pay the cost of the background examination. The background examination report must provide information to confirm:

- (i) the applicant's:
 - (A) identity;
 - (B) current address;
 - (C) professional license certification; and
 - (D) military service; and
- (ii) (A) existing or ongoing criminal investigations and court records relating to the applicant; and
- (B) regulatory agencies' disciplinary actions concerning the applicant.
- (b) The background examination is confidential and may not be held as part of the licensee's public file.
- (2) An entity may not conduct licensing background examinations unless the entity maintains a current filing with the commissioner. The filing must:
 - (a) contain a description of the criteria, standards, and procedures used in conducting the background examination;
 - (b) ensure that the examination will be based on nationally recognized criteria, standards, and procedures; and
 - (c) ensure confidentiality of the applicant's information.
- (3) The commissioner may adopt rules to further implement this section, including but not limited to rules on the length of time that a background examination is valid and rules for the electronic filing of fingerprints.

Section 3. Rental car insurance. Rental car insurance is insurance that:

- (1) provides coverage for periods of less than 90 days;
- (2) applies only to the rental car subject to the rental agreement; and
- (3) is limited to the following kinds of insurance:
 - (a) personal accident insurance for renters and other rental car occupants, for accidental death or dismemberment, and for medical expenses resulting from an accident that occurs with the rental car during the rental period;
 - (b) liability insurance that provides protection to the renters and other authorized drivers of a rental car for liability arising from the operation or use of the rental car during the rental period;
 - (c) personal effects insurance that provides coverage to renters and other vehicle occupants for loss of or damage to personal effects in the rental car during the rental period; or
 - (d) motor club services, as defined in 61-12-301.

Section 4. Rulemaking authority for surety insurers. The commissioner may adopt rules regarding surety insurers who sell, solicit, or negotiate commercial bail bonds. The rules must include but are not limited to rules regarding the receipt of collateral, the description of collateral received, the penalty for failure to return collateral, and an annual list of forfeitures of bonds.

Section 5. Status of nonresident insurance producers -- biennial renewal of license -- payment of fees. A nonresident insurance producer's license continues in force until lapsed, suspended, revoked, or terminated. The license lapses if the licensee fails to remit a biennial renewal fee.

Section 6. Section 33-2-305, MCA, is amended to read:

"33-2-305. Licensing of surplus lines insurance producer -- fee and bond. (1) A person may not place a contract of surplus lines insurance with an unauthorized insurer unless the person is licensed as a property and casualty insurance producer and possesses a current surplus lines insurance license issued by the commissioner.

(2) The commissioner shall issue a surplus lines insurance producer's license to any qualified holder of a current property and casualty insurance producer license only if the insurance producer has:

- (a) remitted to the commissioner the annual fee prescribed by 33-2-708;
- (b) submitted to the commissioner a completed license application on a form supplied by the commissioner; and
- (c) been licensed as a property and casualty insurance producer continuously for 5 years or more; ~~and~~
- ~~—— (d) filed with the commissioner and, for as long as the license remains in effect, kept in force a bond in favor of the state of Montana in the amount of \$10,000, with authorized corporate sureties approved by the commissioner. The bond must be conditioned that the insurance producer will conduct business under the license in accordance with the provisions of The Surplus Lines Insurance Law and that the insurance producer will promptly remit the taxes provided in 33-2-311. The bond may not be terminated unless the surety gives the surplus lines insurance producer, the producing insurance producer, and the commissioner at least 30 days' prior written notice of termination.~~

~~(3) The license expires on April 1 after its date of issue. A surplus lines insurance producer shall renew the license on or before March 1 of each year upon payment of the annual renewal fee prescribed in 33-2-708. A surplus lines insurance producer who fails to apply for a renewal of the license on or before March 1 shall pay~~

~~a fine of \$100 before the commissioner renews the license~~ licensee shall renew the license on a form prescribed by the commissioner. The commissioner may establish rules for biennial renewal of the license. A license lapses if not renewed.

(4) A corporation is eligible to be licensed as a surplus lines insurance producer if:

(a) the corporate license lists the individuals within the corporation who have satisfied the requirements of this part to become surplus lines insurance producers; and

(b) only those individuals listed on the corporate license transact surplus lines insurance.

(5) This section may not be construed to require agents, producers, or brokers acting as intermediaries between a surplus lines insurance producer and an unauthorized insurer under this part to hold a valid Montana surplus lines insurance producer's license."

Section 7. Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) (a) Except as provided in 33-17-212(2), the commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, ~~100.00~~ \$100;

(B) ~~annual~~ biennial renewal of license, ~~10.00~~ \$50;

(C) lapsed license reinstatement fee, \$100;

(ii) resident insurance producer's license lapsed license reinstatement fee, \$50;

~~(ii)~~ (iii) surplus lines insurance producer producer's license:

(A) application for original license and for issuance of license, if issued, ~~50.00~~ \$50;

(B) ~~annual~~ biennial renewal of license, ~~50.00~~ \$100;

(C) lapsed license reinstatement fee, \$200;

(iv) insurance adjuster's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(v) insurance consultant's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(iii)(vi) 50 cents for each page for copies of documents on file in the commissioner's office.

(c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.

(2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization submitting courses or programs for review in any biennium.

(b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).

(3) The commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, and 33-28-201. All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.

(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded."

Section 8. Section 33-7-525, MCA, is amended to read:

"33-7-525. Insurance producer defined -- fraternal benefit society insurance contracts. (1) The term "insurance producer", as used in this chapter, means any authorized or acknowledged insurance producer of a society who acts as ~~such an insurance producer~~ in the solicitation, negotiation, or ~~procurement or making sale~~ of a life insurance, accident and health insurance, or annuity contract.

(2) The term "~~insurance producer~~" does not include any regular salaried officer or employee of a licensed society who devotes substantially all of ~~his~~ the officer's or employee's services to activities other than the solicitation of fraternal insurance contracts from the public and who receives for the solicitation of ~~such the~~ contracts no commission or other compensation directly dependent upon the amount of business obtained."

Section 9. Section 33-7-532, MCA, is amended to read:

"33-7-532. Producer Insurance producer licensing -- fraternal benefit society. (1) A society's insurance producer ~~must be~~ is considered to be an insurance producer and is subject to the same licensing requirements as insurance producers under Title 33, chapter 17, ~~except that an examination is not required of an individual who is licensed in this state as an insurance producer for a society as to the kind of insurance to be transacted on or before October 1, 1981, and who continues to be licensed as an insurance producer.~~

(2) A society doing business in this state may not pay to a person who is not a licensed insurance producer of the society any commission or other compensation for any services in obtaining in this state any new contract of life, accident, or health insurance or any new annuity contract."

Section 10. Section 33-17-102, MCA, is amended to read:

"33-17-102. Definitions. As used in this title, the following definitions apply:

(1) (a) "Adjuster" means a person who, on behalf of the insurer, for compensation as an independent contractor or as the employee of an independent contractor or for a fee or commission investigates and negotiates the settlement of claims arising under insurance contracts or otherwise acts on behalf of the insurer.

(b) The term does not include a:

~~(a)~~(i) licensed attorney who is qualified to practice law in this state;

~~(b)~~(ii) salaried employee of an insurer or of a managing general agent;

~~(c)~~(iii) licensed insurance producer who adjusts or assists in adjustment of losses arising under policies issued by the insurer; or

~~(d)~~(iv) licensed third-party administrator who adjusts or assists in adjustment of losses arising under policies issued by the insurer.

(2) "Adjuster license" means a document issued by the commissioner that authorizes a person to act as an adjuster.

(3) (a) "Administrator" means a person who collects charges or premiums from residents of this state in connection with life, disability, property, or casualty insurance or annuities or who adjusts or settles claims on these coverages.

(b) The term does not ~~mean~~ include:

(i) an employer on behalf of its employees or on behalf of the employees of one or more subsidiaries of affiliated corporations of the employer;

(ii) a union on behalf of its members;

(iii) (A) an insurer that is either authorized in this state or acting as an insurer with respect to a policy lawfully issued and delivered by it in and pursuant to the laws of a state in which the insurer is authorized to transact insurance; or

(B) a health service corporation as defined in 33-30-101;

(iv) a life, disability, property, or casualty insurance producer who is licensed in this state and whose activities are limited exclusively to the sale of insurance;

(v) a creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;

(vi) a trust established in conformity with 29 U.S.C. 186 or the trustees, agents, and employees of the trust;

(vii) a trust exempt from taxation under section 501(a) of the Internal Revenue Code or the trustees and employees of the trust;

(viii) a custodian acting pursuant to a custodian account that meets the requirements of section 401(f) of the Internal Revenue Code or the agents and employees of the custodian;

(ix) a bank, credit union, or other financial institution that is subject to supervision or examination by federal or state banking authorities;

(x) a company that issues credit cards and that advances for and collects premiums or charges from its credit card holders who have authorized it to do so, if the company does not adjust or settle claims;

(xi) a person who adjusts or settles claims in the normal course of the person's practice or employment as an attorney and who does not collect charges or premiums in connection with life or disability insurance or annuities; or

(xii) a person appointed as a managing general agent in this state whose activities are limited exclusively to those described in 33-2-1501(10) and Title 33, chapter 2, part 16.

(4) "Administrator license" means a document issued by the commissioner that authorizes a person to act as an administrator.

(5) (a) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(b) The term does not include an individual.

~~(5)(6)~~ "Consultant" means a person who for a fee examines, appraises, reviews, or evaluates an insurance policy, annuity, or pension contract, plan, or program or who makes recommendations or gives advice

on an insurance policy, annuity, or pension contract, plan, or program.

~~(6)~~(7) "Consultant license" means a document issued by the commissioner that authorizes a person to act as an insurance consultant.

~~(7) "Controlled business" means insurance procured or to be procured by or through a person upon the life, person, property, or risks of the person or the person's spouse, employer, or business.~~

~~(8) "Individual" means a private or natural person, as distinguished from a partnership, corporation, or association.~~

(9) "Insurance producer", except as provided in 33-17-103,:

~~—— (a) means:~~

~~—— (i) a person who solicits, negotiates, effects, procures, delivers, renews, continues, or binds:~~

~~—— (A) policies of insurance for risks residing, located, or to be performed in this state; or~~

~~—— (B) membership contracts as defined in 33-30-101;~~

~~—— (ii) a managing general agent. For purposes of this chapter, the term "managing general agent" has the same meaning as set forth in 33-2-1501.~~

~~—— (b) does not mean a customer service representative. For purposes of this definition, a "customer service representative" means a salaried employee of an insurance producer who assists and is responsible to the insurance producer~~ means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

(10) "Lapse" means the expiration of the license for failure to renew by the biennial renewal date.

~~(10)~~(11) "License" means a document issued by the commissioner that authorizes a person to act as an insurance producer for the ~~kinds of insurance~~ lines of authority specified in the document. The license itself does not create actual, apparent, or inherent authority in the holder to represent or commit an insurer to a binding agreement.

~~(11)~~(12) "Limited line credit insurance" includes credit life insurance, credit disability insurance, credit property insurance, credit unemployment insurance, involuntary unemployment insurance, mortgage life insurance, mortgage guaranty insurance, mortgage disability insurance, gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing the credit obligation and that the commissioner determines should be designated as a form of limited line credit insurance.

~~(12)~~(13) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one

or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

~~(13)~~(14) "Limited lines insurance" means those lines of insurance ~~defined in 33-1-211 through 33-1-219 or any other line of insurance~~ that the commissioner finds necessary to recognize for the purposes of complying with 33-17-401(3).

~~(14)~~(15) "Limited lines producer" means a person authorized by the commissioner to sell, solicit, or negotiate limited lines insurance.

~~(15)~~(16) "Lines of authority" means any kind of insurance as defined in Title 33.

(17) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract if the person engaged in negotiation either sells insurance or obtains insurance from insurers for purchasers.

~~(16)~~(18) "Person" means an individual, ~~partnership, corporation, association, or other legal entity a~~ business entity.

~~(17)~~(19) "Public adjuster" means an adjuster employed by and representing the interests of the insured.

(20) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

(21) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance.

(22) "Suspend" means to bar the use of a person's license for a period of time.

~~(18)~~(23) "Uniform application" means the national association of insurance commissioners' uniform application for resident and nonresident insurance producer licensing.

(24) "Uniform business entity application" means the national association of insurance commissioners uniform business entity application for resident and nonresident business entities."

Section 11. Section 33-17-103, MCA, is amended to read:

"33-17-103. Exemptions from definition of insurance producer. The definition of insurance producer ~~contained in 33-17-102~~ does not include:

(1) ~~a person~~ an individual who is a regularly salaried officer or employee of an insurer and who is engaged in the performance of usual and customary executive, administrative, or clerical duties and whose duties

do not include the negotiation, sale, or solicitation of insurance;

(2) ~~a person~~ an individual who is a salaried employee in the office of an insurance producer and who devotes ~~his~~ the individual's full time to clerical and administrative services, including the incidental taking of insurance applications and receipt of premiums in the office of ~~his~~ the individual's employer, if the ~~employee~~ individual does not receive any commissions on the applications and ~~his~~ the individual's compensation is not varied by the volume of applications or premiums ~~he~~ the individual takes or receives;

(3) a person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, or group or blanket accident and disability insurance or for the purpose of enrolling individuals under ~~such~~ those plans, issuing certificates under ~~such~~ those plans, or otherwise assisting in administering ~~such~~ those plans; if ~~no~~ a commission is not paid for the service;

(4) an employer, ~~his~~ the employer's officers; or employees; or the trustees of an employee trust plan, to the extent that the employer, officers, employees, or trustees are engaged in the administration ~~of~~ or operation of a program of employee benefits for their own employees or the employees of their subsidiaries or affiliates if the program involves the use of insurance issued by an insurer and the employer, officers, employees, or trustees are not compensated in any manner, directly or indirectly, by the insurer issuing the contracts; ~~or~~

(5) a person who is:

(a) an employee of an insurer or of an organization employed by an insurer, which insurer or organization is engaged in the inspection, rating, or classification of insurance risks or in the supervision of the training of insurance producers; and

(b) not individually engaged in the selling, solicitation, or negotiation of insurance policies and contracts;

(6) an attorney advising a client on general insurance matters, provided the attorney does not sell, solicit, or negotiate insurance;

(7) a salaried full-time employee who counsels or advises the employer or the subsidiaries or affiliates of the employer about the life insurance or annuities if the employee does not sell or solicit insurance or receive a commission or fee;

(8) a person whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of this state if the person does not sell, solicit, or negotiate insurance contracts with respect to risks located in this state; or

(9) a person who is not a resident of this state who sells, solicits, or negotiates a contract of insurance

for commercial property and casualty risks with respect to an insured with risks located in more than one state that are insured under the contract if the person is licensed in the state where the insured maintains its principal place of business and the contract insures risks located in that state."

Section 12. Section 33-17-201, MCA, is amended to read:

"33-17-201. License required of insurance producer -- forms -- background examinations. (1) ~~A~~ A person may not in this state sell, solicit, or negotiate insurance or act as or hold himself out to be an insurance producer in this state for subjects of insurance located, residing, or to be performed in this state unless licensed as an insurance producer under this chapter.

(2) The commissioner may prescribe by rule and make available the forms required in connection with application for, issuance, continuation, suspension, or termination of a license.

(3) All resident applicants shall undergo preclicensing background examinations. The applicant or insurer shall pay the cost of the background examinations.

~~(3) Unless licensed as a life insurance producer as required by this section, a person may not in this state solicit life insurance or annuities or procure applications for life insurance or annuities or engage or hold himself out as engaging in the business of analyzing or abstracting life insurance policies or annuities or of counseling or advising or giving opinions, other than as a licensed attorney, relative to insurance or annuities for fee, commission, or other compensation, other than as a salaried full-time employee counseling and advising his employer relative to the insurance interests of the employer and of the subsidiaries or business affiliates of the employer or with respect to the insurance interests of employees of the employer, subsidiaries, or affiliates under group insurance or similar insurance plans arranged by the employer or employers of the employees.~~

~~———— (4) A person licensed to sell coverage only for the all-risk federal crop insurance program shall receive a license restricted to that purpose.~~

~~———— (5) A representative of a fraternal benefit society who solicits and negotiates insurance contracts is an insurance producer and is subject to the same licensing requirements as those for an insurance producer, except that a license is not required of:~~

~~———— (a) an officer, employee, or secretary of a fraternal benefit society or of a subordinate lodge or branch of a fraternal benefit society who devotes substantially all of his time to activities other than the solicitation or negotiation of insurance contracts and who receives no commission or other compensation directly dependent upon the number or amount of insurance contracts solicited or negotiated; or~~

~~—— (b) a representative of a fraternal benefit society who devotes or intends to devote less than 50% of his time to the solicitation and procurement of insurance contracts for the fraternal benefit society. A person who in the preceding calendar year has solicited and procured life insurance with a face amount in excess of \$50,000 or, in the case of any other kind or kinds of insurance that the fraternal benefit society may write, on more than 25 individuals and who has received or will receive a commission or other compensation for the insurance is presumed to be devoting or intending to devote, 50% of his time to the solicitation or procurement of insurance contracts for the fraternal benefit society.~~

~~—— (6) The commissioner may not grant or extend a license to a person if the license is being or will be used to write controlled business. The commissioner shall consider a license to have been, or intended to be, used for the purpose of writing controlled business if, during any 12-month period, the aggregate amount of premiums on controlled business would exceed the aggregate amount of premiums on all other insurance business of the applicant or licensee."~~

Section 13. Section 33-17-211, MCA, is amended to read:

"33-17-211. General qualifications -- application for license. (1) An individual applying for a license shall apply on a form specified by the commissioner and declare under penalty of refusal, suspension, or revocation of the license that statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall verify that the individual:

- (a) is 18 years of age or older;
- (b) has not committed an act that is a ground for refusal, suspension, or revocation as set forth in 33-17-1001;
- (c) has paid the license fees stated in 33-2-708;
- (d) has successfully passed the examinations for each kind of insurance for which the individual has applied within 12 months of application;
- (e) is a resident of this state or of another state that grants similar privileges to residents of this state. Licenses issued based upon Montana state residency terminate if the licensee relocates to another state.
- (f) is competent, trustworthy, and of good reputation;
- (g) has experience or training or otherwise is qualified in the kind or kinds of insurance for which the applicant applies to be licensed and is reasonably familiar with the provisions of this code that govern the

applicant's operations as an insurance producer; ~~and~~

(h) if applying for a license as to life or disability insurance:

(i) is not a funeral director, undertaker, or mortician operating in this or any other state;

(ii) is not an officer, employee, or representative of a funeral director, undertaker, or mortician operating in this or any other state; or

(iii) does not hold an interest in or benefit from a business of a funeral director, undertaker, or mortician operating in this or any other state; ~~and~~

(i) has completed a background examination pursuant to [section 2].

(2) A resident or nonresident business entity acting as an insurance producer is required to obtain an insurance producer's license. Application must be made using the uniform business entity application. In order to approve the application, the commissioner shall verify that:

(a) the business entity has paid the appropriate fee; and

(b) the business entity has designated an individual licensed insurance producer who is responsible for the business entity's compliance with the insurance laws of this state.

~~(2)~~(3) A person acting as an insurance producer shall obtain a license. A person shall apply for a license on a form specified by the commissioner. Before approving the application, the commissioner shall verify that:

(a) the person meets the requirements listed in subsection (1);

(b) the person has paid the licensing fees stated in 33-2-708 for each individual licensed in conjunction with the person's license. A licensed person shall promptly notify the commissioner of each change relating to an individual listed in the license.

(c) the person has designated a licensed officer responsible for compliance by the person with the insurance laws and rules of this state;

(d) each member and employee of a partnership and each officer, director, stockholder, or employee of a corporation who is acting as an insurance producer in this state has obtained a license;

(e) (i) if the person is a partnership or corporation, the transaction of insurance business is within the purposes stated in the partnership agreement or the articles of incorporation; and

(ii) if the person is a corporation, the secretary of state has issued a certificate of existence or authority under 35-1-1312 or filed articles of incorporation under 35-1-220.

~~(3)~~(4) The commissioner may license as a resident insurance producer an association of licensed Montana insurance producers, whether or not incorporated, formed and existing substantially for purposes other

than insurance. The license must be used solely for the purpose of enabling the association to place, as a resident insurance producer, insurance of the properties, interests, and risks of the state of Montana and of other public agencies, bodies, and institutions and to receive the customary commission for the placement. The president and secretary of the association shall apply for the license in the name of the association, and the commissioner shall issue the license to the association in its name alone. The fee for the license is the same as that required by 33-2-708(1)(a). The commissioner may, after a hearing with notice to the association, revoke the license if the commissioner finds that continuation of the license is not in the public interest or that a ground listed in 33-17-1001 exists.

~~(4)~~(5) An insurance producer using an assumed business name shall register the name with the commissioner before using it."

Section 14. Section 33-17-212, MCA, is amended to read:

"33-17-212. Examination required -- exceptions -- fees. (1) Except as provided in subsection (6), an individual applying for a license is required to pass a written examination. The examination must test the knowledge of the individual concerning each kind of insurance listed in subsection (5) for which application is made, the duties and responsibilities of an insurance producer, and the insurance laws and rules of this state. The examination must be developed and conducted under rules adopted by the commissioner.

(2) The commissioner may conduct the examination or make arrangements, including contracting with an outside testing service, for administering the examination. The commissioner may arrange for the testing service to recover the cost of the examination from the applicant.

(3) An individual who fails to appear for the examination as scheduled or fails to pass the examination may reapply for an examination and shall remit all forms before being rescheduled for another examination.

(4) If the applicant is a partnership or corporation, each individual who is to be named in the license as having authority to act for the applicant in its insurance transactions under the license shall meet the qualifications as provided in this section.

(5) Examination of an applicant for a license must cover all of the kinds of insurance for which the applicant has applied to be licensed, as constituted by any one or more of the following classifications:

- (a) life insurance;
- (b) disability insurance;
- (c) property insurance. For the purposes of this provision, property insurance includes marine insurance.

- (d) casualty insurance;
- (e) surety insurance;
- (f) ~~credit life and disability~~ limited lines credit insurance;
- (g) title insurance.

(6) This section does not apply to and an examination is not required of:

(a) an individual lawfully licensed as an insurance producer as to the kind or kinds of insurance to be transacted as of or immediately prior to January 1, 1961, and who continues to be licensed;

(b) an applicant for a license covering the same kind or kinds of insurance as to which the applicant was licensed in this state, other than under a temporary license, within the 12 months immediately preceding the date of application unless the commissioner has suspended, revoked, or ~~refused to continue~~ terminated the previous license, ~~except that this subsection (6)(b) does not apply to a title insurance producer, as defined in 33-25-105;~~

(c) an applicant for a license as a nonresident insurance producer;

~~(d) an applicant for a license to sell all-risk federal crop insurance if the applicant provides certification from an appropriate governmental agency to the commissioner that the applicant is qualified to sell the insurance;~~

~~—— (e)(d) transportation ticket agents of common carriers applying for a license to solicit and sell only:~~

(i) accident insurance ticket policies; or

(ii) insurance of personal effects while being carried as baggage on a common carrier, as incidental to their duties as transportation ticket agents;

~~(f)(e)~~ an association applying for a license under 33-17-211;

~~(g) a mechanical breakdown insurance producer;~~

~~—— (h) a prepaid legal plans producer;~~

~~—— (i) a gap insurance producer;~~

~~—— (j) involuntary unemployment insurance producer;~~

~~—— (k) a credit property insurance, credit unemployment insurance, or mortgage guaranty insurance producer; or~~

~~(f)(f)~~ an individual who, within ~~60~~ 90 days of cancellation of a license issued by the state of the individual's residence, files with the commissioner a current letter of clearance certifying that the individual has passed an examination and held an insurance license in good standing in the individual's state of licensure, except that the individual shall take an examination pertaining to this state's law and each kind of insurance for which the individual has applied for a license and that is not covered under the license held in the other state.

(7) (a) Subject to the provisions of subsection (7)(b), an individual who applies for a nonresident insurance producer license in this state and who was previously licensed for the same lines of authority in another state may not be required to complete any prelicensing education or examination.

(b) The exemption in subsection (7)(a) is available only if the individual is currently licensed in the other state or the individual's application is received within 90 days of the cancellation of the individual's previous license and if the other state issues a certification that, at the time of the cancellation, the individual was in good standing in that state or the state's database records, maintained by the national association of insurance commissioners or any of the association's affiliates or subsidiaries that the association oversees, indicate that the insurance producer is or was licensed in good standing for the lines of authority requested."

Section 15. Section 33-17-214, MCA, is amended to read:

"33-17-214. Issuance of license -- insurance producer lines of authority -- license data -- lapse of license -- change of address. (1) A person who has met the requirements of 33-17-211 and 33-17-212 must be issued a license, unless that person has been denied a license pursuant to 33-17-1001.

(2) An insurance producer may receive a license qualifying the insurance producer in one or more of the following lines of authority:

(a) life insurance coverage on human lives, including benefits of endowment and annuities, and the coverage may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(b) accident and health or sickness insurance coverage providing for sickness, bodily injury, or accidental death, and the coverage may provide benefits for disability income;

(c) property insurance coverage for the direct or consequential loss or damage to property of every kind;

(d) casualty insurance coverage against legal liability, including liability for death, injury, or disability or damage to real or personal property;

(e) variable life and variable annuity products insurance coverage provided under variable life insurance contracts and variable annuities;

(f) personal lines of property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;

(g) limited line credit insurance; or

(h) any other line of insurance permitted under Title 33.

(3) The license must state the name and address of the licensee, personal identification number, date of issuance, general conditions relative to expiration or termination, kind of insurance covered, and other information that the commissioner considers necessary.

(4) The license of a partnership, corporation, or association must also state the name of each individual authorized to exercise the license powers.

(5) Each license remains in effect, unless it is suspended, or revoked, or terminated or the license lapses.

(6) A person shall inform the commissioner in writing of a change of address within 30 days of the change."

Section 16. Section 33-17-301, MCA, is amended to read:

"33-17-301. Adjuster license -- qualifications -- catastrophe adjustments -- public adjuster. (1) ~~A person~~ An individual may not act as or purport to be an adjuster in this state unless licensed as an adjuster under this chapter. ~~A person~~ An individual shall apply for an adjuster license to the commissioner according to forms that the commissioner prescribes and furnishes. The commissioner shall issue the adjuster license to individuals qualified to be licensed as an adjuster.

(2) To be licensed as an adjuster, the applicant:

(a) must be an individual 18 years of age or more;

(b) must be a resident of Montana or resident of another state that will permit residents of Montana regularly to act as adjusters in the other state;

(c) ~~must be a full-time salaried employee of a licensed adjuster or a graduate of a recognized law school or have had experience or special education or training as to the handling of loss claims under insurance contracts of sufficient duration and extent reasonably to make the applicant competent to fulfill the responsibilities of an adjuster~~ shall pass an adjuster licensing examination as prescribed by the commissioner and pay the fee pursuant to 33-2-708;

(d) must be trustworthy and of good character and reputation; and

(e) must have and shall maintain in this state an office accessible to the public and shall keep in the office for not less than 5 years the usual and customary records pertaining to transactions under the license. This provision does not prohibit maintenance of the office in the home of the licensee.

(3) A partnership or corporation, whether or not organized under the laws of this state, may be licensed

as an adjuster if each individual who is to exercise the adjuster license powers is separately licensed or is named in the partnership or corporation adjuster license and is qualified for an individual adjuster license.

(4) An adjuster license or qualifications are not required for an adjuster who is sent into this state by and on behalf of an insurer or adjusting partnership or corporation for the purpose of investigating or making adjustments of a particular loss under an insurance policy or for the adjustment of a series of losses resulting from a catastrophe common to all losses.

(5) An adjuster license continues in force until ~~expired~~ lapsed, suspended, revoked, or terminated. ~~The license is subject to renewal upon written request to the commissioner~~ The licensee shall renew the license by the biennial renewal date and pay the appropriate fee or the license will lapse. The biennial fee is established pursuant to 33-2-708.

(6) The commissioner may adopt rules providing for the examination, licensure, bonding, and regulation of public adjusters."

Section 17. Section 33-17-502, MCA, is amended to read:

"33-17-502. Prohibition on holding out as consultant -- receiving fee. (1) A person not licensed as an insurance consultant in this state who identifies or represents to the public that the person is an insurance consultant without having been licensed as an insurance consultant under this part or a person who uses any other designation or title that is likely to mislead the public and represents to the public that the person has particular insurance qualifications other than those for which the person may be otherwise licensed or otherwise qualified ~~is guilty of a misdemeanor and upon conviction shall be fined \$1,500~~ may be fined pursuant to 33-1-317.

(2) A person not licensed as an insurance consultant with respect to the relevant kinds of insurance who receives a fee for examining, appraising, reviewing, or evaluating any insurance policy, annuity or pension contract, plan, or program or who makes recommendations or gives advice with regard to any insurance policy, annuity or pension contract, plan, or program without first having been licensed by the commissioner as an insurance consultant ~~is guilty of a misdemeanor and upon conviction shall be fined \$1,500~~ may be fined pursuant to 33-1-317.

(3) This part does not apply to:

- (a) licensed attorneys at law in this state acting in their professional capacity; or
- (b) an actuary or a certified public accountant who provides information, recommendations, advice, or services in a professional capacity if neither the actuary nor the certified public accountant or the actuary's or

certified public accountant's employer receives any compensation directly or indirectly on account of any insurance, bond, annuity or pension contract that results in whole or part from that information, recommendation, advice, or services."

Section 18. Section 33-17-503, MCA, is amended to read:

"33-17-503. Application -- fee -- expiration. (1) Before a consultant license is issued or renewed, the prospective licensee shall:

(a) properly file in the office of the commissioner a written application on forms the commissioner prescribes; and

(b) pay a fee of \$50, which the commissioner shall deposit with the state treasurer to be credited to the state's general fund pursuant to 33-2-708.

(2) ~~Each consultant license must be renewed each year by the consultant paying a continuation fee on or before May 31, and the license continues in force unless suspended, revoked, or otherwise terminated. A~~ consultant license continues in force until lapsed, suspended, revoked, or terminated."

Section 19. Section 33-17-504, MCA, is amended to read:

"33-17-504. Issuing license -- limitations. The commissioner may issue a consultant license to an individual who has complied with the requirements of this chapter with respect to either life insurance, meaning all of those kinds of insurance authorized in 33-1-207, 33-1-208, 33-20-1001, 33-21-103, 33-22-501, and 33-22-601, or general insurance, meaning all of those kinds of insurance authorized in 33-1-206, 33-1-207, 33-1-209 through 33-1-212, 33-1-214 through 33-1-219, and 33-1-221 through 33-1-229, as specified in the license."

Section 20. Section 33-17-1001, MCA, is amended to read:

"33-17-1001. Suspension, revocation, or refusal of license. (1) The commissioner may suspend, revoke, refuse to renew, or refuse to issue an insurance producer's license, adjuster license, or consultant license, or may levy a civil penalty in accordance with 33-1-317, or may choose any combination of actions; when an insurance producer, adjuster, consultant, or applicant for ~~an insurance producer's license~~ those licenses has:

(a) engaged or is about to engage in an act or practice for which issuance of the license could have been refused;

(b) obtained or attempted to obtain a license through misrepresentation or fraud, including but not limited to providing incorrect, misleading, incomplete, or materially untrue information in the license application or in the continuing education affidavit;

(c) violated or failed to comply with a provision of this code or has violated a rule, subpoena, or order of the commissioner or of the commissioner of any other state;

(d) improperly withheld, misappropriated, or converted to the licensee's or applicant's own use money or property belonging to policyholders, insurers, beneficiaries, or others and received in conduct of business under the license;

(e) been convicted of a felony;

(f) in the conduct of the affairs under the license, used fraudulent, coercive, or dishonest practices or the licensee or applicant is incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the public;

~~(g) made a materially untrue statement in the license application or in the continuing education affidavit;~~

~~—(h)(g)~~ misrepresented the terms of an actual or proposed insurance contract or application for insurance;

~~(i)(h)~~ been found guilty of an unfair trade practice or fraud prohibited by Title 33, chapter 18;

~~(j)(i)~~ had a similar license suspended or revoked in any other state;

~~(k)(j)~~ forged another's name to an application for insurance or to any document related to an insurance transaction;

~~(l)(k)~~ cheated on an examination for a license; or

~~(m)(l)~~ knowingly accepted insurance business from a person who is not licensed.

(2) The license of a partnership or corporation may be suspended, revoked, refused, or denied if a reason listed in subsection (1) applies to an individual designated in the license to exercise its powers.

(3) ~~The commissioner may suspend, revoke, or refuse to continue a license under subsection (1)(e) without conducting an investigation pursuant to 37-1-203 or making a written finding pursuant to 37-1-204. The commissioner retains the authority to enforce the provisions of and impose any penalty or remedy authorized by the insurance code against any person who is under investigation for or charged with a violation of the insurance code even if the person's license or registration has been surrendered or has lapsed.~~

Section 21. Section 33-17-1002, MCA, is amended to read:

"33-17-1002. Procedure following suspension or revocation. (1) Upon suspension, ~~or~~ revocation,

or refusal of a license, the commissioner shall immediately notify the licensee ~~of the suspension or revocation either in person or or applicant~~ by mail addressed to the licensee or applicant at ~~his~~ the last-known address ~~last of record with~~ contained in the records of the commissioner. Notice ~~by mail~~ is effectuated when ~~the notice is~~ mailed.

(2) The commissioner may reissue a license that has lapsed if the insurance producer has paid the lapsed license reinstatement fee pursuant to 33-2-708 and has filed certification of completion of continuing education requirements for the preceding biennium within 1 year of the lapse occurring.

~~(2)(3)~~ The commissioner may not again issue a license under this code to a person whose license has been revoked until after expiration of 1 year and ~~thereafter not~~ until the person again qualifies for a license in accordance with this code. If the commissioner revokes a person's license, the commissioner may refuse to issue a license to the person for up to 5 years after the revocation. A person whose license has been revoked twice is not again eligible for any license under this code.

~~(3)(4)~~ If the license of a partnership or corporation is suspended or revoked, ~~no~~ a member of the partnership or officer or director of the corporation may not be licensed or be designated in a license to exercise its powers during the period of the suspension or revocation unless the commissioner determines upon substantial evidence that the member, officer, or director was not personally at fault and did not acquiesce in the matter on account of which the license was suspended or revoked."

Section 22. Section 33-17-1203, MCA, is amended to read:

"33-17-1203. Continuing education -- basic requirements -- exceptions. (1) Unless exempt under subsection (4):

(a) a person licensed to act as an insurance producer ~~for property, casualty, surety, or title insurance~~ or as a consultant ~~for general insurance~~ other than a person licensed for limited lines credit insurance shall, during each ~~calendar year~~ 24-month period, complete at least ~~10~~ 24 credit hours of approved continuing education;

~~(b) a person licensed to act as an insurance producer for life or disability insurance or as a consultant for life insurance shall, during each calendar year, complete at least 10 credit hours of approved continuing education;~~

~~— (c) a person holding multiple licenses shall, during each calendar year, complete at least 15 credit hours of approved continuing education;~~

~~(d)~~(b) a person licensed to act as an insurance producer only for limited lines credit life and disability insurance shall, during each ~~calendar year~~ biennium, complete ~~2 1/2~~ 5 credit hours of approved continuing education in the areas of insurance law, ethics, or ~~credit life and disability~~ limited lines credit insurance;

~~(e)~~(c) a person licensed as an insurance producer or consultant shall, during each biennium, complete at least 1 credit hour of approved continuing education on changes in Montana insurance statutes and administrative rules.

(2) If a person licensed as an insurance producer or consultant completes more credit hours of approved continuing education in a ~~year~~ biennium than the minimum required in subsection (1), the excess credit hours may be carried forward and applied to the continuing education requirements of the next ~~year~~ biennium.

(3) The commissioner may, for good cause, grant an extension of time, not to exceed 1 year, during which the requirements imposed by subsection (1) may be completed.

(4) The minimum continuing education requirements do not apply to:

~~(a) a person licensed to sell any kind of insurance for which an examination is not required under 33-17-212(6)(d) through (6)(f);~~

~~_____ (b)(a)~~ a person holding a temporary license issued under 33-17-216; or

~~(c) a newly licensed insurance producer or consultant during the calendar year in which the licensee first received a license;~~

~~_____ (d) a person who only executes surety bail bonds; or~~

~~_____ (e)~~(b) an insurance producer or consultant otherwise exempted by the commissioner."

Section 23. Section 33-17-1205, MCA, is amended to read:

"33-17-1205. Compliance -- failure to comply -- rulemaking authority. (1) Each person subject to the requirements of 33-17-1203 shall file ~~annually on a form~~ biennially in a format supplied by the commissioner ~~written~~ certification as to the approved courses, lectures, seminars, and instructional programs successfully completed by that person during the preceding ~~calendar year~~ biennium.

(2) ~~The commissioner may suspend the license of any person failing to comply with subsection (1) who has not been granted an extension under 33-17-1203 and may impose a late renewal fee of \$20, which is the same amount previously determined by an administrative rule in effect on November 3, 1998. The suspension must remain in effect until the time that the person demonstrates to the satisfaction of the commissioner that the person has complied with all the provisions of this part. If the license of an insurance producer or consultant is~~

~~suspended by reason of this section for a period exceeding 12 months, the license must be terminated upon notice to the insurance producer or consultant~~ If a person fails to comply with this section, the person's license lapses.

(3) In the continuing education affidavit, an insurance producer shall report to the commissioner the final disposition of any administrative action or the final disposition of any criminal action taken against the insurance producer in another jurisdiction or by another governmental agency in this state. As used in this subsection, "final disposition of any criminal action" means a plea agreement or sentence and judgment.

~~(3)~~(4) Each person providing approved courses, lectures, seminars, and instructional programs, including insurance company education programs, shall file annually with the commissioner an alphabetical list of the names and addresses of all persons who have successfully completed an approved continuing education activity during the preceding calendar year.

~~(4)~~(5) The commissioner may, following the process provided for in 33-1-314, withdraw approval of all courses, lectures, seminars, and instructional programs of any person that fails to comply with subsection ~~(3)~~ (4). The commissioner may, after having conducted a hearing pursuant to 33-1-701, impose a fine upon a person that has failed to comply with subsection ~~(3)~~ (4). The fine may not exceed the penalty permitted by 33-1-317.

(6) The commissioner may adopt rules establishing the requirements for biennial filing and reporting of continuing education credits."

Section 24. Section 33-17-1207, MCA, is amended to read:

"33-17-1207. Funding for continuing education program. All ~~annual~~ continuing education filing fees collected by the commissioner and fees paid to the commissioner for the review of initial applications for approval of continuing education courses or the periodic review of these courses must be turned over promptly to the state treasurer who shall place the money in the state special revenue fund to the credit of the state auditor's office to be used for the continuing education program. The funds allocated by this section to the state special revenue fund may be used only to defray the expenses of the state auditor's office in discharging its duties as prescribed by this part, subject to the applicable laws relating to the appropriation of state funds and to the deposit and expenditure of state money. The state auditor is responsible for the proper expenditure of this money as provided by law."

Section 25. Coordination instruction. If Senate Bill No. 254 and [this act] are passed and approved,

then [section 7] of this act, amending 33-2-708, is amended to read:

"Section 7. Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) (a) Except as provided in 33-17-212(2), the commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, ~~100.00~~ \$100;

(B) ~~annual~~ biennial renewal of license ~~10.00~~ \$50;

(C) lapsed license reinstatement fee, \$100;

(ii) resident insurance producer's license lapsed license reinstatement fee, \$100;

~~(ii)~~ (iii) surplus lines insurance producer's license:

(A) application for original license and for issuance of license, if issued, ~~50.00~~ \$50;

(B) ~~annual~~ biennial renewal of license ~~50.00~~ \$100;

(C) lapsed license reinstatement fee, \$200;

(iv) insurance adjuster's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(v) insurance consultant's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(vi) resident and nonresident rental car entity producer's license:

(A) application for original license, including issuance of license, if issued, \$100;

(B) quarterly filing fee, \$25;

~~(iii)~~ (vii) 50 cents for each page for copies of documents on file in the commissioner's office.

(c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.

(2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization submitting courses or programs for review in any biennium.

(b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).

(3) The commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, and 33-28-201. All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.

(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded.""

Section 26. Codification instruction. (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 33, chapter 17, and the provisions of Title 33, chapter 17, apply to [sections 1 and 2].

(2) [Section 3] is intended to be codified as an integral part of Title 33, chapter 1, part 2, and the provisions of Title 33, chapter 1, part 2, apply to [section 3].

(3) [Section 4] is intended to be codified as an integral part of Title 33, chapter 26, and the provisions of Title 33, chapter 26, apply to [section 4].

(4) [Section 5] is intended to be codified as an integral part of Title 33, chapter 17, part 4, and the provisions of Title 33, chapter 17, part 4, apply to [section 5].

Section 27. Effective date -- applicability. (1) Except as provided in subsection (2), [this act] is effective July 1, 2003, and applies to licenses issued or renewed on or after July 1, 2003.

(2) [Section 2] applies to license applications postmarked on or after July 1, 2004.

- END -

I hereby certify that the within bill,
HB 0169, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2019.

President of the Senate

Signed this _____ day
of _____, 2019.

HOUSE BILL NO. 169
INTRODUCED BY KEANE
BY REQUEST OF THE STATE AUDITOR

AN ACT REVISING THE LAWS OF LICENSING FOR INSURANCE PRODUCERS, ADJUSTERS, AND CONSULTANTS; PROVIDING FOR INACTIVE STATUS FOR INSURANCE PRODUCERS SERVING IN THE ARMED FORCES; REQUIRING AN INSURANCE PRODUCER LICENSING BACKGROUND EXAMINATION AND PROVIDING EXAMINATION CRITERIA; DEFINING "CAR RENTAL INSURANCE"; REVISING THE PAYMENT OF FEES FOR LICENSES AND RENEWAL OF LICENSES RELATING TO INSURANCE; REVISING THE STATUS OF NONRESIDENT INSURANCE PRODUCERS; PROVIDING FOR BIENNIAL RENEWAL OF LICENSES AND PAYMENT OF BIENNIAL LICENSE FEES FOR CERTAIN PRODUCERS; SIMPLIFYING THE INSURANCE CONTINUING EDUCATION REQUIREMENTS; AMENDING SECTIONS 33-2-305, 33-2-708, 33-7-525, 33-7-532, 33-17-102, 33-17-103, 33-17-201, 33-17-211, 33-17-212, 33-17-214, 33-17-301, 33-17-502, 33-17-503, 33-17-504, 33-17-1001, 33-17-1002, 33-17-1203, 33-17-1205, AND 33-17-1207, MCA; AND PROVIDING AN EFFECTIVE DATE AND APPLICABILITY DATES.

Exported Data

Date	Action	Committee	Votes (Yes)	Votes (No)	Media
04/22/03	Chapter Number Assigned				
04/21/03	(H) Signed by Governor				
04/12/03	(H) Transmitted to Governor				
04/11/03	(S) Signed by President				
04/11/03	(H) Signed by Speaker				
04/10/03	(C) Printed - New Version Available				
04/10/03	(H) Returned from Enrolling				
04/08/03	(H) Sent to Enrolling				
04/08/03	(H) 3rd Reading Passed as Amended by Senate		88	12	
04/08/03	(H) Scheduled for 3rd Reading				
04/07/03	(H) 2nd Reading Senate Amendments Concurred		91	8	
04/07/03	(H) Scheduled for 2nd Reading				
03/25/03	(S) Returned to House with Amendments				
03/25/03	(S) 3rd Reading Concurred		48	2	
03/25/03	(S) Scheduled for 3rd Reading				
03/24/03	(C) Printed - New Version Available				
03/22/03	(S) 2nd Reading Concurred as Amended on Voice Vote		43	2	
03/22/03	(S) 2nd Reading Motion to Amend Carried on Voice Vote		45	0	
03/22/03	(S) Scheduled for 2nd Reading				
03/19/03	(C) Printed - New Version Available				
03/19/03	(S) Committee Report--Bill Concurred as Amended	(S) Business and Labor			
03/19/03	(S) Committee Executive Action--Bill Concurred as Amended	(S) Business and Labor	9	0	
03/13/03	(S) Hearing	(S) Business and Labor			
02/06/03	(S) Hearing Canceled	(S) Business and Labor			
01/23/03	(S) Referred to Committee	(S) Business and Labor			
01/23/03	(S) First Reading				
01/22/03	(H) Transmitted to Senate				
01/22/03	(H) 3rd Reading Passed		63	36	
01/22/03	(H) Scheduled for 3rd Reading				
01/21/03	(H) 2nd Reading Passed		75	25	

Date	Action	Committee	Votes (Yes)	Votes (No)	Media
01/21/03	(H) Scheduled for 2nd Reading				
01/15/03	(C) Printed - New Version Available				
01/15/03	(H) Committee Report--Bill Passed as Amended	(H) Business and Labor			
01/14/03	(H) Committee Executive Action--Bill Passed as Amended	(H) Business and Labor	18	0	
01/10/03	(H) Hearing	(H) Business and Labor			
01/09/03	(H) Fiscal Note Printed				
01/08/03	(H) Fiscal Note Received				
01/06/03	(H) First Reading				
01/03/03	(H) Referred to Committee	(H) Business and Labor			
01/02/03	(H) Fiscal Note Requested				
12/24/02	(C) Introduced Bill Text Available Electronically				
12/24/02	(H) Introduced				
12/23/02	(C) Pre-Introduction Letter Sent				
12/23/02	(C) Draft in Assembly/Executive Director Review				
12/23/02	(C) Draft in Final Drafter Review				
12/20/02	(C) Bill Draft Text Available Electronically				
12/20/02	(C) Draft in Input/Proofing				
12/18/02	(C) Draft to Drafter - Edit Review [SAB]				
12/18/02	(C) Draft in Edit				
12/17/02	(C) Draft in Legal Review				
12/04/02	(C) Draft to Requester for Review				
11/26/02	(C) Draft Taken Off Hold				
11/08/02	(C) Draft On Hold				
09/05/02	(C) Draft Request Received				

FISCAL NOTE

Bill #: HB0169

Title: Revise insurance producer licensing laws

Primary Sponsor: Keane, J

Status: As Introduced

Sponsor signature	Date	Chuck Swysgood, Budget Director	Date
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Fiscal Summary

	<u>FY 2004 Difference</u>	<u>FY 2005 Difference</u>
Expenditures:		
State Special Revenue	\$0	\$0
Revenue:		
State Special Revenue	\$270,000	\$0
Net Impact on General Fund Balance:	\$0	\$0

- | | |
|---|--|
| ☐ Significant Local Gov. Impact | ☐ Technical Concerns |
| ☐ Included in the Executive Budget | ☐ Significant Long-Term Impacts |
| ☐ Dedicated Revenue Form Attached | ☐ Needs to be included in HB 2 |

Fiscal Analysis

ASSUMPTIONS:

1. There will be no impact on the number of resident applications or continuing education filings received by the State Auditor's Office (SAO).
2. There will be no impact on the number of non-resident applications received by the SAO.
3. The non-resident continuing education fee will increase from \$10 to \$25. There are approximately 16,000 non-resident producers.
4. A license reinstatement fee will be implemented for producers that let their licenses lapse.
5. The license renewal fee will change from an annual fee to a biennial fee. This change will be phased in over a four-year period.
6. SAO will now collect a \$50 adjusters license fee on a biennial renewal fee. SAO estimates there are approximately 600 insurance adjusters currently licensed in Montana.
7. These fees will be deposited into a state special revenue account to the credit of the SAO.

Fiscal Note Request HB0169, As Introduced
(continued)

FISCAL IMPACT:

	<u>FY 2004 Difference</u>	<u>FY 2005 Difference</u>
<u>Expenditures:</u>	\$0	\$0
<u>Funding of Expenditures:</u>		
State Special Revenue (02)	\$0	\$0
<u>Revenues:</u>		
State Special Revenue (02)	\$270,000	\$0
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>		
State Special Revenue (02)	\$270,000	\$0

HOUSE BILL NO. 169
INTRODUCED BY J. KEANE
BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS OF LICENSING FOR INSURANCE PRODUCERS, ADJUSTERS, AND CONSULTANTS; PROVIDING FOR INACTIVE STATUS FOR INSURANCE PRODUCERS SERVING IN THE ARMED FORCES; REQUIRING AN INSURANCE PRODUCER LICENSING BACKGROUND EXAMINATION AND PROVIDING EXAMINATION CRITERIA; DEFINING "CAR RENTAL INSURANCE"; REVISING THE PAYMENT OF FEES FOR LICENSES AND RENEWAL OF LICENSES RELATING TO INSURANCE; REVISING THE STATUS OF NONRESIDENT INSURANCE PRODUCERS; PROVIDING FOR BIENNIAL RENEWAL OF LICENSES AND PAYMENT OF BIENNIAL LICENSE FEES FOR CERTAIN PRODUCERS; SIMPLIFYING THE INSURANCE CONTINUING EDUCATION REQUIREMENTS; AMENDING SECTIONS 33-1-211, 33-2-305, 33-2-708, 33-7-525, 33-7-532, 33-17-102, 33-17-103, 33-17-201, 33-17-211, 33-17-212, 33-17-214, 33-17-301, 33-17-502, 33-17-503, 33-17-504, 33-17-1001, 33-17-1002, 33-17-1203, 33-17-1205, AND 33-17-1207, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Inactive status -- insurance producers serving in armed forces. (1) The commissioner may place an insurance producer on inactive status if the insurance producer enters active service in the armed forces of the United States.

(2) An insurance producer may not transact the business of insurance while on inactive status.

(3) The commissioner shall waive the continuing education requirements in 33-17-1205 and the fee in 33-2-708 while an insurance producer is on inactive status.

(4) In order to be placed on inactive status, an insurance producer shall notify the commissioner when called to active service.

(5) In order to be taken off inactive status, an insurance producer shall notify the commissioner when discharged from active service.

NEW SECTION. Section 2. Licensing background examination -- entity registry criteria. (1) (a)

Each applicant shall obtain at the applicant's own cost a complete background examination. The background examination report must provide information to confirm:

(i) the applicant's:

(A) identity;

(B) current address;

(C) professional license certification; and

(D) military service; and

(ii) (A) existing or ongoing criminal investigations and court records relating to the applicant; and

(B) regulatory agencies' disciplinary actions concerning the applicant.

(b) The background examination is confidential and may not be held as part of the licensee's public file.

(2) An entity may not conduct licensing background examinations unless the entity maintains a current filing with the commissioner. The filing must:

(a) contain a description of the criteria, standards, and procedures used in conducting the background examination;

(b) ensure that the examination will be based on nationally recognized criteria, standards, and procedures; and

(c) ensure confidentiality of the applicant's information.

(3) The commissioner may adopt rules to further implement this section, including but not limited to rules on the length of time that a background examination is valid and rules for the electronic filing of fingerprints.

NEW SECTION. Section 3. Rental car insurance. Rental car insurance is insurance that:

(1) provides coverage for periods of less than 90 days;

(2) applies only to the rental car subject to the rental agreement; and

(3) is limited to the following kinds of insurance:

(a) personal accident insurance for renters and other rental car occupants, for accidental death or dismemberment, and for medical expenses resulting from an accident that occurs with the rental car during the rental period;

(b) liability insurance that provides protection to the renters and other authorized drivers of a rental car for liability arising from the operation or use of the rental car during the rental period;

(c) personal effects insurance that provides coverage to renters and other vehicle occupants for loss of or damage to personal effects in the rental car during the rental period; or

(d) motor club services, as defined in 61-12-301.

NEW SECTION. **Section 4. Rulemaking authority for surety insurers.** The commissioner may adopt rules regarding surety insurers who sell, solicit, or negotiate commercial bail bonds. The rules must include but are not limited to rules regarding the receipt of collateral, the description of collateral received, the penalty for failure to return collateral, and an annual list of forfeitures of bonds.

NEW SECTION. **Section 5. Status of nonresident insurance producers -- biennial renewal of license -- payment of fees.** A nonresident insurance producer's license continues in force until lapsed, suspended, revoked, or terminated. The license lapses if the licensee fails to remit a biennial renewal fee.

Section 6. Section 33-1-211, MCA, is amended to read:

"33-1-211. Surety insurance. Surety insurance includes:

(1) fidelity insurance ~~which is insurance guaranteeing the fidelity of persons holding positions of public or private trust; that:~~

(a) guarantees the honesty or faithful performance of persons who hold positions of public or private trust;

(b) indemnifies against loss resulting from forgery or alteration of documents; or

(c) indemnifies banks, stockbrokers, insurance companies, and other financial institutions against:

(i) loss of money, securities, and other tangible property, while on the premises of the insured or in transit, through theft, deceptive practices, destruction, or disappearance;

(ii) loss of or damage to the insured's premises or furniture, fixtures, and equipment resulting from actual or attempted burglary, robbery, arson, or malicious mischief; or

(iii) liability for loss of or damage to customers' property while secured in safe deposit boxes;

(2) ~~insurance guaranteeing the performance of contracts, other than insurance policies, and guaranteeing and executing bonds, undertakings, and contracts of suretyship~~ insurance that covers obligations to pay the debt or be responsible for the default of another when there is a legal relationship based upon a written contract in which one person undertakes to answer to another for the debt or default of a third person resulting from the third person's failure to pay or perform as required by an underlying contract, permit, law, or rule;

(3) ~~insurance indemnifying banks, bankers, brokers, or financial or moneyed corporations or associations;~~

~~—— (a) against check forgery or alteration or against loss resulting from any cause of bills of exchange, notes, bonds, securities, evidences of debt, deeds, mortgages, warehouse receipts, or other valuable papers, documents, money, precious metals and articles made therefrom, jewelry, watches, necklaces, bracelets, gems, or precious and semiprecious stones, including any loss while being transported in armored motor vehicles, by mail, or by messenger but not including any other risks of transportation or navigation;~~

~~—— (b) against loss or damage to the insured's premises or to his furnishings, fixtures, equipment, safes, and vaults therein caused by burglary, robbery, theft, or criminal mischief or any attempt thereat commercial bail bonds issued to ensure the presence of a criminal defendant at a court proceeding pursuant to 46-9-403(4).~~"

Section 7. Section 33-2-305, MCA, is amended to read:

"33-2-305. Licensing of surplus lines insurance producer -- fee and bond. (1) A person may not place a contract of surplus lines insurance with an unauthorized insurer unless the person is licensed as a property and casualty insurance producer and possesses a current surplus lines insurance license issued by the commissioner.

(2) The commissioner shall issue a surplus lines insurance producer's license to any qualified holder of a current property and casualty insurance producer license only if the insurance producer has:

(a) remitted to the commissioner the annual fee prescribed by 33-2-708;

(b) submitted to the commissioner a completed license application on a form supplied by the commissioner; and

(c) been licensed as a property and casualty insurance producer continuously for 5 years or more; ~~and~~

~~—— (d) filed with the commissioner and, for as long as the license remains in effect, kept in force a bond in favor of the state of Montana in the amount of \$10,000, with authorized corporate sureties approved by the commissioner. The bond must be conditioned that the insurance producer will conduct business under the license in accordance with the provisions of The Surplus Lines Insurance Law and that the insurance producer will promptly remit the taxes provided in 33-2-311. The bond may not be terminated unless the surety gives the surplus lines insurance producer, the producing insurance producer, and the commissioner at least 30 days' prior written notice of termination.~~

(3) ~~The license expires on April 1 after its date of issue. A surplus lines insurance producer shall renew the license on or before March 1 of each year upon payment of the annual renewal fee prescribed in 33-2-708. A surplus lines insurance producer who fails to apply for a renewal of the license on or before March 1 shall pay a fine of \$100 before the commissioner renews the license~~ licensee shall renew the license on a form prescribed

by the commissioner. The commissioner may establish rules for biennial renewal of the license. A license lapses if not renewed.

(4) A corporation is eligible to be licensed as a surplus lines insurance producer if:

(a) the corporate license lists the individuals within the corporation who have satisfied the requirements of this part to become surplus lines insurance producers; and

(b) only those individuals listed on the corporate license transact surplus lines insurance.

(5) This section may not be construed to require agents, producers, or brokers acting as intermediaries between a surplus lines insurance producer and an unauthorized insurer under this part to hold a valid Montana surplus lines insurance producer's license."

Section 8. Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) (a) Except as provided in 33-17-212(2), the commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, ~~100.00~~ \$100;

(B) ~~annual~~ biennial renewal of license, ~~10.00~~ \$50;

(C) lapsed license reinstatement fee, \$100;

(ii) resident insurance producer's license lapsed license reinstatement fee, \$100;

~~(ii)~~ (iii) surplus lines insurance ~~producer~~ producer's license:

(A) application for original license and for issuance of license, if issued, ~~50.00~~ \$50;

(B) ~~annual~~ biennial renewal of license, ~~50.00~~ \$100;

(C) lapsed license reinstatement fee, \$200;

(iv) insurance adjuster's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(v) insurance consultant's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

~~(iii)~~(vi) 50 cents for each page for copies of documents on file in the commissioner's office.

(c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.

(2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization submitting courses or programs for review in any biennium.

(b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).

(3) The commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, and 33-28-201. All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.

(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded."

Section 9. Section 33-7-525, MCA, is amended to read:

"33-7-525. Insurance producer defined -- fraternal benefit society insurance contracts. (1) The term "insurance producer", as used in this chapter, means any authorized or acknowledged insurance producer of a society who acts as ~~such an insurance producer~~ in the solicitation, negotiation, or ~~procurement or making sale~~ of a life insurance, accident and health insurance, or annuity contract.

(2) The term ~~"insurance producer"~~ does not include any regular salaried officer or employee of a licensed society who devotes substantially all of ~~his~~ the officer's or employee's services to activities other than the solicitation of fraternal insurance contracts from the public and who receives for the solicitation of ~~such the~~ contracts no commission or other compensation directly dependent upon the amount of business obtained."

Section 10. Section 33-7-532, MCA, is amended to read:

"33-7-532. Producer Insurance producer licensing -- fraternal benefit society. (1) A society's insurance producer ~~must be~~ is considered to be an insurance producer and is subject to the same licensing requirements as insurance producers under Title 33, chapter 17, ~~except that an examination is not required of~~

~~an individual who is licensed in this state as an insurance producer for a society as to the kind of insurance to be transacted on or before October 1, 1981, and who continues to be licensed as an insurance producer.~~

(2) A society doing business in this state may not pay to a person who is not a licensed insurance producer of the society any commission or other compensation for any services in obtaining in this state any new contract of life, accident, or health insurance or any new annuity contract."

Section 11. Section 33-17-102, MCA, is amended to read:

"33-17-102. Definitions. As used in this title, the following definitions apply:

(1) (a) "Adjuster" means a person who, on behalf of the insurer, for compensation as an independent contractor or as the employee of an independent contractor or for a fee or commission investigates and negotiates the settlement of claims arising under insurance contracts or otherwise acts on behalf of the insurer.

(b) The term does not include a:

~~(a)~~(i) licensed attorney who is qualified to practice law in this state;

~~(b)~~(ii) salaried employee of an insurer or of a managing general agent;

~~(c)~~(iii) licensed insurance producer who adjusts or assists in adjustment of losses arising under policies issued by the insurer; or

~~(d)~~(iv) licensed third-party administrator who adjusts or assists in adjustment of losses arising under policies issued by the insurer.

(2) "Adjuster license" means a document issued by the commissioner that authorizes a person to act as an adjuster.

(3) (a) "Administrator" means a person who collects charges or premiums from residents of this state in connection with life, disability, property, or casualty insurance or annuities or who adjusts or settles claims on these coverages.

(b) The term does not ~~mean~~ include:

(i) an employer on behalf of its employees or on behalf of the employees of one or more subsidiaries of affiliated corporations of the employer;

(ii) a union on behalf of its members;

(iii) (A) an insurer that is either authorized in this state or acting as an insurer with respect to a policy lawfully issued and delivered by it in and pursuant to the laws of a state in which the insurer is authorized to transact insurance; or

(B) a health service corporation as defined in 33-30-101;

(iv) a life, disability, property, or casualty insurance producer who is licensed in this state and whose activities are limited exclusively to the sale of insurance;

(v) a creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;

(vi) a trust established in conformity with 29 U.S.C. 186 or the trustees, agents, and employees of the trust;

(vii) a trust exempt from taxation under section 501(a) of the Internal Revenue Code or the trustees and employees of the trust;

(viii) a custodian acting pursuant to a custodian account that meets the requirements of section 401(f) of the Internal Revenue Code or the agents and employees of the custodian;

(ix) a bank, credit union, or other financial institution that is subject to supervision or examination by federal or state banking authorities;

(x) a company that issues credit cards and that advances for and collects premiums or charges from its credit card holders who have authorized it to do so, if the company does not adjust or settle claims;

(xi) a person who adjusts or settles claims in the normal course of the person's practice or employment as an attorney and who does not collect charges or premiums in connection with life or disability insurance or annuities; or

(xii) a person appointed as a managing general agent in this state whose activities are limited exclusively to those described in 33-2-1501(10) and Title 33, chapter 2, part 16.

(4) "Administrator license" means a document issued by the commissioner that authorizes a person to act as an administrator.

(5) (a) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(b) The term does not include an individual.

~~(5)~~(6) "Consultant" means a person who for a fee examines, appraises, reviews, or evaluates an insurance policy, annuity, or pension contract, plan, or program or who makes recommendations or gives advice on an insurance policy, annuity, or pension contract, plan, or program.

~~(6)~~(7) "Consultant license" means a document issued by the commissioner that authorizes a person to act as an insurance consultant.

~~(7) "Controlled business" means insurance procured or to be procured by or through a person upon the life, person, property, or risks of the person or the person's spouse, employer, or business.~~

(8) "Individual" means a ~~private or natural person, as distinguished from a partnership, corporation, or association.~~

(9) "Insurance producer", except as provided in 33-17-103,:

~~—— (a) means:~~

~~—— (i) a person who solicits, negotiates, effects, procures, delivers, renews, continues, or binds:~~

~~—— (A) policies of insurance for risks residing, located, or to be performed in this state; or~~

~~—— (B) membership contracts as defined in 33-30-101;~~

~~—— (ii) a managing general agent. For purposes of this chapter, the term "managing general agent" has the same meaning as set forth in 33-2-1501.~~

~~—— (b) does not mean a customer service representative. For purposes of this definition, a "customer service representative" means a salaried employee of an insurance producer who assists and is responsible to the insurance producer~~ means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

(10) "Lapse" means the expiration of the license for failure to renew by the biennial renewal date.

~~(40)(11)~~ "License" means a document issued by the commissioner that authorizes a person to act as an insurance producer for the kinds of insurance lines of authority specified in the document. The license itself does not create actual, apparent, or inherent authority in the holder to represent or commit an insurer to a binding agreement.

~~(41)(12)~~ "Limited line credit insurance" includes credit life insurance, credit disability insurance, credit property insurance, credit unemployment insurance, involuntary unemployment insurance, mortgage life insurance, mortgage guaranty insurance, mortgage disability insurance, gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing the credit obligation and that the commissioner determines should be designated as a form of limited line credit insurance.

~~(42)(13)~~ "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

~~(43)(14)~~ "Limited lines insurance" means those lines of insurance defined in 33-1-211 through 33-1-219 or any other line of insurance that the commissioner finds necessary to recognize for the purposes of complying with 33-17-401(3).

~~(44)(15)~~ "Limited lines producer" means a person authorized by the commissioner to sell, solicit, or

negotiate limited lines insurance.

~~(15)~~(16) "Lines of authority" means any kind of insurance as defined in Title 33.

~~(17)~~ "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract if the person engaged in negotiation either sells insurance or obtains insurance from insurers for purchasers.

~~(16)~~(18) "Person" means an individual, partnership, corporation, association, or other legal entity a business entity.

~~(17)~~(19) "Public adjuster" means an adjuster employed by and representing the interests of the insured.

~~(20)~~ "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

~~(21)~~ "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance.

~~(22)~~ "Suspend" means to bar the use of a person's license for a period of time.

~~(18)~~(23) "Uniform application" means the national association of insurance commissioners' uniform application for resident and nonresident insurance producer licensing.

~~(24)~~ "Uniform business entity application" means the national association of insurance commissioners uniform business entity application for resident and nonresident business entities."

Section 12. Section 33-17-103, MCA, is amended to read:

"33-17-103. Exemptions from definition of insurance producer. The definition of insurance producer contained in 33-17-102 does not include:

(1) ~~a person~~ an individual who is a regularly salaried officer or employee of an insurer and who is engaged in the performance of usual and customary executive, administrative, or clerical duties and whose duties do not include the negotiation, sale, or solicitation of insurance;

(2) ~~a person~~ an individual who is a salaried employee in the office of an insurance producer and who devotes ~~his~~ the individual's full time to clerical and administrative services, including the incidental taking of insurance applications and receipt of premiums in the office of ~~his~~ the individual's employer, if the ~~employee~~ individual does not receive any commissions on the applications and ~~his~~ the individual's compensation is not varied by the volume of applications or premiums ~~he~~ the individual takes or receives;

(3) a person who secures and furnishes information for the purpose of group life insurance, group

property and casualty insurance, group annuities, or group or blanket accident and disability insurance or for the purpose of enrolling individuals under ~~such those~~ plans, issuing certificates under ~~such those~~ plans, or otherwise assisting in administering ~~such those~~ plans; if ~~no~~ a commission is ~~not~~ paid for the service;

(4) an employer, ~~his~~ the employer's officers; or employees, or the trustees of an employee trust plan, to the extent that the employer, officers, employees, or trustees are engaged in the administration ~~of~~ or operation of a program of employee benefits for their own employees or the employees of their subsidiaries or affiliates if the program involves the use of insurance issued by an insurer and the employer, officers, employees, or trustees are not compensated in any manner, directly or indirectly, by the insurer issuing the contracts; ~~or~~

(5) a person who is:

(a) an employee of an insurer or of an organization employed by an insurer, which insurer or organization is engaged in the inspection, rating, or classification of insurance risks or in the supervision of the training of insurance producers; and

(b) not individually engaged in the selling, solicitation, or negotiation of insurance policies and contracts;

(6) an attorney advising a client on general insurance matters, provided the attorney does not sell, solicit, or negotiate insurance; or

(7) a salaried full-time employee who counsels or advises the employer or the subsidiaries or affiliates of the employer about the life insurance or annuities if the employee does not sell or solicit insurance or receive a commission or fee."

Section 13. Section 33-17-201, MCA, is amended to read:

"33-17-201. License required of insurance producer -- forms -- background examinations. (1) ~~A~~ For subjects of insurance resident, located, or to be performed in this state, ~~a person may not in this state sell, solicit, or negotiate insurance or act as or hold himself out to be an insurance producer for subjects of insurance located, residing, or to be performed in this state unless licensed as an insurance producer under this chapter.~~

(2) The commissioner may prescribe by rule and make available the forms required in connection with application for, issuance, continuation, suspension, or termination of a license.

(3) All resident applicants shall undergo prelicensing background examinations. The applicant or insurer shall pay the cost of the background examinations.

~~(3) Unless licensed as a life insurance producer as required by this section, a person may not in this state solicit life insurance or annuities or procure applications for life insurance or annuities or engage or hold himself out as engaging in the business of analyzing or abstracting life insurance policies or annuities or of~~

~~counseling or advising or giving opinions, other than as a licensed attorney, relative to insurance or annuities for fee, commission, or other compensation, other than as a salaried full-time employee counseling and advising his employer relative to the insurance interests of the employer and of the subsidiaries or business affiliates of the employer or with respect to the insurance interests of employees of the employer, subsidiaries, or affiliates under group insurance or similar insurance plans arranged by the employer or employers of the employees.~~

~~———— (4) A person licensed to sell coverage only for the all-risk federal crop insurance program shall receive a license restricted to that purpose.~~

~~———— (5) A representative of a fraternal benefit society who solicits and negotiates insurance contracts is an insurance producer and is subject to the same licensing requirements as those for an insurance producer, except that a license is not required of:~~

~~———— (a) an officer, employee, or secretary of a fraternal benefit society or of a subordinate lodge or branch of a fraternal benefit society who devotes substantially all of his time to activities other than the solicitation or negotiation of insurance contracts and who receives no commission or other compensation directly dependent upon the number or amount of insurance contracts solicited or negotiated; or~~

~~———— (b) a representative of a fraternal benefit society who devotes or intends to devote less than 50% of his time to the solicitation and procurement of insurance contracts for the fraternal benefit society. A person who in the preceding calendar year has solicited and procured life insurance with a face amount in excess of \$50,000 or, in the case of any other kind or kinds of insurance that the fraternal benefit society may write, on more than 25 individuals and who has received or will receive a commission or other compensation for the insurance is presumed to be devoting or intending to devote, 50% of his time to the solicitation or procurement of insurance contracts for the fraternal benefit society.~~

~~———— (6) The commissioner may not grant or extend a license to a person if the license is being or will be used to write controlled business. The commissioner shall consider a license to have been, or intended to be, used for the purpose of writing controlled business if, during any 12-month period, the aggregate amount of premiums on controlled business would exceed the aggregate amount of premiums on all other insurance business of the applicant or licensee."~~

Section 14. Section 33-17-211, MCA, is amended to read:

"33-17-211. General qualifications -- application for license. (1) An individual applying for a license shall apply on a form specified by the commissioner and declare under penalty of refusal, suspension, or revocation of the license that statements made in the application are true, correct, and complete to the best of

the individual's knowledge and belief. Before approving the application, the commissioner shall verify that the individual:

- (a) is 18 years of age or older;
- (b) has not committed an act that is a ground for refusal, suspension, or revocation as set forth in 33-17-1001;
- (c) has paid the license fees stated in 33-2-708;
- (d) has successfully passed the examinations for each kind of insurance for which the individual has applied within 12 months of application;
- (e) is a resident of this state or of another state that grants similar privileges to residents of this state. Licenses issued based upon Montana state residency terminate if the licensee relocates to another state.
- (f) is competent, trustworthy, and of good reputation;
- (g) has experience or training or otherwise is qualified in the kind or kinds of insurance for which the applicant applies to be licensed and is reasonably familiar with the provisions of this code that govern the applicant's operations as an insurance producer; ~~and~~
- (h) if applying for a license as to life or disability insurance:
- (i) is not a funeral director, undertaker, or mortician operating in this or any other state;
- (ii) is not an officer, employee, or representative of a funeral director, undertaker, or mortician operating in this or any other state; or
- (iii) does not hold an interest in or benefit from a business of a funeral director, undertaker, or mortician operating in this or any other state; ~~and~~
- (i) has completed a background examination pursuant to [section 2].

(2) A resident or nonresident business entity acting as an insurance producer is required to obtain an insurance producer's license. Application must be made using the uniform business entity application. In order to approve the application, the commissioner shall verify that:

- (a) the business entity has paid the appropriate fee; and
- (b) the business entity has designated an individual licensed insurance producer who is responsible for the business entity's compliance with the insurance laws of this state.

~~(2)~~(3) A person acting as an insurance producer shall obtain a license. A person shall apply for a license on a form specified by the commissioner. Before approving the application, the commissioner shall verify that:

- (a) the person meets the requirements listed in subsection (1);
- (b) the person has paid the licensing fees stated in 33-2-708 for each individual licensed in conjunction

with the person's license. A licensed person shall promptly notify the commissioner of each change relating to an individual listed in the license.

(c) the person has designated a licensed officer responsible for compliance by the person with the insurance laws and rules of this state;

(d) each member and employee of a partnership and each officer, director, stockholder, or employee of a corporation who is acting as an insurance producer in this state has obtained a license;

(e) (i) if the person is a partnership or corporation, the transaction of insurance business is within the purposes stated in the partnership agreement or the articles of incorporation; and

(ii) if the person is a corporation, the secretary of state has issued a certificate of existence or authority under 35-1-1312 or filed articles of incorporation under 35-1-220.

~~(3)~~(4) The commissioner may license as a resident insurance producer an association of licensed Montana insurance producers, whether or not incorporated, formed and existing substantially for purposes other than insurance. The license must be used solely for the purpose of enabling the association to place, as a resident insurance producer, insurance of the properties, interests, and risks of the state of Montana and of other public agencies, bodies, and institutions and to receive the customary commission for the placement. The president and secretary of the association shall apply for the license in the name of the association, and the commissioner shall issue the license to the association in its name alone. The fee for the license is the same as that required by 33-2-708(1)(a). The commissioner may, after a hearing with notice to the association, revoke the license if the commissioner finds that continuation of the license is not in the public interest or that a ground listed in 33-17-1001 exists.

~~(4)~~(5) An insurance producer using an assumed business name shall register the name with the commissioner before using it."

Section 15. Section 33-17-212, MCA, is amended to read:

"33-17-212. Examination required -- exceptions -- fees. (1) Except as provided in subsection (6), an individual applying for a license is required to pass a written examination. The examination must test the knowledge of the individual concerning each kind of insurance listed in subsection (5) for which application is made, the duties and responsibilities of an insurance producer, and the insurance laws and rules of this state. The examination must be developed and conducted under rules adopted by the commissioner.

(2) The commissioner may conduct the examination or make arrangements, including contracting with an outside testing service, for administering the examination. The commissioner may arrange for the testing

service to recover the cost of the examination from the applicant.

(3) An individual who fails to appear for the examination as scheduled or fails to pass the examination may reapply for an examination and shall remit all forms before being rescheduled for another examination.

(4) If the applicant is a partnership or corporation, each individual who is to be named in the license as having authority to act for the applicant in its insurance transactions under the license shall meet the qualifications as provided in this section.

(5) Examination of an applicant for a license must cover all of the kinds of insurance for which the applicant has applied to be licensed, as constituted by any one or more of the following classifications:

- (a) life insurance;
- (b) disability insurance;
- (c) property insurance. For the purposes of this provision, property insurance includes marine insurance.
- (d) casualty insurance;
- (e) surety insurance;
- (f) ~~credit life and disability~~ limited lines credit insurance;
- (g) title insurance.

(6) This section does not apply to and an examination is not required of:

(a) an individual lawfully licensed as an insurance producer as to the kind or kinds of insurance to be transacted as of or immediately prior to January 1, 1961, and who continues to be licensed;

(b) an applicant for a license covering the same kind or kinds of insurance as to which the applicant was licensed in this state, other than under a temporary license, within the 12 months immediately preceding the date of application unless the commissioner has suspended, revoked, or ~~refused to continue~~ terminated the previous license, ~~except that this subsection (6)(b) does not apply to a title insurance producer, as defined in 33-25-105;~~

(c) an applicant for a license as a nonresident insurance producer;

~~(d) an applicant for a license to sell all-risk federal crop insurance if the applicant provides certification from an appropriate governmental agency to the commissioner that the applicant is qualified to sell the insurance;~~

~~——(e)(d)~~ transportation ticket agents of common carriers applying for a license to solicit and sell only:

(i) accident insurance ticket policies; or

(ii) insurance of personal effects while being carried as baggage on a common carrier, as incidental to their duties as transportation ticket agents;

~~(f)(e)~~ an association applying for a license under 33-17-211;

~~(g) a mechanical breakdown insurance producer;~~

~~—— (h) a prepaid legal plans producer;~~
~~—— (i) a gap insurance producer;~~
~~—— (j) involuntary unemployment insurance producer;~~
~~—— (k) a credit property insurance, credit unemployment insurance, or mortgage guaranty insurance producer; or~~

~~(f)~~ (f) an individual who, within ~~60~~ 90 days of cancellation of a license issued by the state of the individual's residence, files with the commissioner a current letter of clearance certifying that the individual has passed an examination and held an insurance license in good standing in the individual's state of licensure, except that the individual shall take an examination pertaining to this state's law and each kind of insurance for which the individual has applied for a license and that is not covered under the license held in the other state.

(7) (a) Subject to the provisions of subsection (7)(b), an individual who applies for a nonresident insurance producer license in this state and who was previously licensed for the same lines of authority in another state may not be required to complete any prelicensing education or examination.

(b) The exemption in subsection (7)(a) is available only if the individual is currently licensed in the other state or the individual's application is received within 90 days of the cancellation of the individual's previous license and if the other state issues a certification that, at the time of the cancellation, the individual was in good standing in that state or the state's database records, maintained by the national association of insurance commissioners or any of the association's affiliates or subsidiaries that the association oversees, indicate that the insurance producer is or was licensed in good standing for the lines of authority requested."

Section 16. Section 33-17-214, MCA, is amended to read:

"33-17-214. Issuance of license -- insurance producer lines of authority -- license data -- lapse of license -- change of address. (1) A person who has met the requirements of 33-17-211 and 33-17-212 must be issued a license, unless that person has been denied a license pursuant to 33-17-1001.

(2) An insurance producer may receive a license qualifying the insurance producer in one or more of the following lines of authority:

(a) life insurance coverage on human lives, including benefits of endowment and annuities, and the coverage may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(b) accident and health or sickness insurance coverage providing for sickness, bodily injury, or accidental death, and the coverage may provide benefits for disability income;

- (c) property insurance coverage for the direct or consequential loss or damage to property of every kind;
 - (d) casualty insurance coverage against legal liability, including liability for death, injury, or disability or damage to real or personal property;
 - (e) variable life and variable annuity products insurance coverage provided under variable life insurance contracts and variable annuities;
 - (f) personal lines of property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;
 - (g) limited line credit insurance; or
 - (h) any other line of insurance permitted under Title 33.
- (3) The license must state the name and address of the licensee, personal identification number, date of issuance, general conditions relative to expiration or termination, kind of insurance covered, and other information that the commissioner considers necessary.
- (4) The license of a partnership, corporation, or association must also state the name of each individual authorized to exercise the license powers.
- (5) Each license remains in effect, unless it is suspended, or revoked, or terminated or the license lapses.
- (6) A person shall inform the commissioner in writing of a change of address within 30 days of the change."

Section 17. Section 33-17-301, MCA, is amended to read:

"33-17-301. Adjuster license -- qualifications -- catastrophe adjustments -- public adjuster. (1) ~~A person~~ An individual may not act as or purport to be an adjuster in this state unless licensed as an adjuster under this chapter. ~~A person~~ An individual shall apply for an adjuster license to the commissioner according to forms that the commissioner prescribes and furnishes. The commissioner shall issue the adjuster license to individuals qualified to be licensed as an adjuster.

- (2) To be licensed as an adjuster, the applicant:
- (a) must be an individual 18 years of age or more;
 - (b) must be a resident of Montana or resident of another state that will permit residents of Montana regularly to act as adjusters in the other state;
 - (c) ~~must be a full-time salaried employee of a licensed adjuster or a graduate of a recognized law school or have had experience or special education or training as to the handling of loss claims under insurance~~

~~contracts of sufficient duration and extent reasonably to make the applicant competent to fulfill the responsibilities of an adjuster shall pass an adjuster licensing examination as prescribed by the commissioner and pay the fee pursuant to 33-2-708;~~

(d) must be trustworthy and of good character and reputation; and

(e) must have and shall maintain in this state an office accessible to the public and shall keep in the office for not less than 5 years the usual and customary records pertaining to transactions under the license. This provision does not prohibit maintenance of the office in the home of the licensee.

(3) A partnership or corporation, whether or not organized under the laws of this state, may be licensed as an adjuster if each individual who is to exercise the adjuster license powers is separately licensed or is named in the partnership or corporation adjuster license and is qualified for an individual adjuster license.

(4) An adjuster license or qualifications are not required for an adjuster who is sent into this state by and on behalf of an insurer or adjusting partnership or corporation for the purpose of investigating or making adjustments of a particular loss under an insurance policy or for the adjustment of a series of losses resulting from a catastrophe common to all losses.

(5) An adjuster license continues in force until ~~expired~~ lapsed, suspended, revoked, or terminated. ~~The license is subject to renewal upon written request to the commissioner~~ The licensee shall renew the license by the biennial renewal date and pay the appropriate fee or the license will lapse. The biennial fee is established pursuant to 33-2-708.

(6) The commissioner may adopt rules providing for the examination, licensure, bonding, and regulation of public adjusters."

Section 18. Section 33-17-502, MCA, is amended to read:

"33-17-502. Prohibition on holding out as consultant -- receiving fee. (1) A person not licensed as an insurance consultant in this state who identifies or represents to the public that the person is an insurance consultant without having been licensed as an insurance consultant under this part or a person who uses any other designation or title that is likely to mislead the public and represents to the public that the person has particular insurance qualifications other than those for which the person may be otherwise licensed or otherwise qualified ~~is guilty of a misdemeanor and upon conviction shall be fined \$1,500~~ may be fined pursuant to 33-1-317.

(2) A person not licensed as an insurance consultant with respect to the relevant kinds of insurance who receives a fee for examining, appraising, reviewing, or evaluating any insurance policy, annuity or pension contract, plan, or program or who makes recommendations or gives advice with regard to any insurance policy,

annuity or pension contract, plan, or program without first having been licensed by the commissioner as an insurance consultant ~~is guilty of a misdemeanor and upon conviction shall be fined \$1,500~~ may be fined pursuant to 33-1-317.

(3) This part does not apply to:

(a) licensed attorneys at law in this state acting in their professional capacity; or

(b) an actuary or a certified public accountant who provides information, recommendations, advice, or services in a professional capacity if neither the actuary nor the certified public accountant or the actuary's or certified public accountant's employer receives any compensation directly or indirectly on account of any insurance, bond, annuity or pension contract that results in whole or part from that information, recommendation, advice, or services."

Section 19. Section 33-17-503, MCA, is amended to read:

"33-17-503. Application -- fee -- expiration. (1) Before a consultant license is issued or renewed, the prospective licensee shall:

(a) properly file in the office of the commissioner a written application on forms the commissioner prescribes; and

(b) pay a fee of \$50, ~~which the commissioner shall deposit with the state treasurer to be credited to the state's general fund pursuant to 33-2-708.~~

(2) ~~Each consultant license must be renewed each year by the consultant paying a continuation fee on or before May 31, and the license continues in force unless suspended, revoked, or otherwise terminated. A consultant license continues in force until lapsed, suspended, revoked, or terminated."~~

Section 20. Section 33-17-504, MCA, is amended to read:

"33-17-504. Issuing license -- limitations. The commissioner may issue a consultant license to an individual who has complied with the requirements of this chapter with respect to either life insurance, meaning all of those kinds of insurance authorized in 33-1-207, 33-1-208, 33-20-1001, 33-21-103, 33-22-501, and 33-22-601, or general insurance, meaning all of those kinds of insurance authorized in 33-1-206, 33-1-207, 33-1-209 through 33-1-212, 33-1-214 through 33-1-219, and 33-1-221 through 33-1-229, as specified in the license."

Section 21. Section 33-17-1001, MCA, is amended to read:

"33-17-1001. Suspension, revocation, or refusal of license. (1) The commissioner may suspend, revoke, refuse to renew, or refuse to issue an insurance producer's license, adjuster license, or consultant license, or may levy a civil penalty in accordance with 33-1-317, or may choose any combination of actions; when an insurance producer, adjuster, consultant, or applicant for ~~an insurance producer's license~~ those licenses has:

(a) engaged or is about to engage in an act or practice for which issuance of the license could have been refused;

(b) obtained or attempted to obtain a license through misrepresentation or fraud, including but not limited to providing incorrect, misleading, incomplete, or materially untrue information in the license application or in the continuing education affidavit;

(c) violated or failed to comply with a provision of this code or has violated a rule, subpoena, or order of the commissioner or of the commissioner of any other state;

(d) improperly withheld, misappropriated, or converted to the licensee's or applicant's own use money or property belonging to policyholders, insurers, beneficiaries, or others and received in conduct of business under the license;

(e) been convicted of a felony;

(f) in the conduct of the affairs under the license, used fraudulent, coercive, or dishonest practices or the licensee or applicant is incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the public;

~~(g) made a materially untrue statement in the license application or in the continuing education affidavit;~~

~~—(h)(g)~~ misrepresented the terms of an actual or proposed insurance contract or application for insurance;

~~(i)(h)~~ been found guilty of an unfair trade practice or fraud prohibited by Title 33, chapter 18;

~~(j)(i)~~ had a similar license suspended or revoked in any other state;

~~(k)(j)~~ forged another's name to an application for insurance or to any document related to an insurance transaction;

~~(l)(k)~~ cheated on an examination for a license; or

~~(m)(l)~~ knowingly accepted insurance business from a person who is not licensed.

(2) The license of a partnership or corporation may be suspended, revoked, refused, or denied if a reason listed in subsection (1) applies to an individual designated in the license to exercise its powers.

(3) ~~The commissioner may suspend, revoke, or refuse to continue a license under subsection (1)(e) without conducting an investigation pursuant to 37-1-203 or making a written finding pursuant to 37-1-204~~ The commissioner retains the authority to enforce the provisions of and impose any penalty or remedy authorized by

the insurance code against any person who is under investigation for or charged with a violation of the insurance code even if the person's license or registration has been surrendered or has lapsed."

Section 22. Section 33-17-1002, MCA, is amended to read:

"33-17-1002. Procedure following suspension or revocation. (1) Upon suspension, ~~or revocation,~~
~~or refusal~~ of a license, the commissioner shall ~~immediately~~ notify the licensee ~~of the suspension or revocation~~
~~either in person or~~ or applicant by mail addressed to the licensee or applicant at ~~his~~ the last-known address ~~last~~
~~of record with~~ contained in the records of the commissioner. Notice ~~by mail~~ is effectuated when ~~the notice is~~
mailed.

(2) The commissioner may reissue a license that has lapsed if the insurance producer has paid the lapsed license reinstatement fee pursuant to 33-2-708 and has filed certification of completion of continuing education requirements for the preceding biennium within 1 year of the lapse occurring.

~~(2)~~(3) The commissioner may not again issue a license under this code to a person whose license has been revoked until after expiration of 1 year and ~~thereafter not~~ until the person again qualifies for a license in accordance with this code. If the commissioner revokes a person's license, the commissioner may refuse to issue a license to the person for up to 5 years after the revocation. A person whose license has been revoked twice is not again eligible for any license under this code.

~~(3)~~(4) If the license of a partnership or corporation is suspended or revoked, ~~no~~ a member of the partnership or officer or director of the corporation may not be licensed or be designated in a license to exercise its powers during the period of the suspension or revocation unless the commissioner determines upon substantial evidence that the member, officer, or director was not personally at fault and did not acquiesce in the matter on account of which the license was suspended or revoked."

Section 23. Section 33-17-1203, MCA, is amended to read:

"33-17-1203. Continuing education -- basic requirements -- exceptions. (1) Unless exempt under subsection (4):

(a) a person licensed to act as an insurance producer ~~for property, casualty, surety, or title insurance~~
~~or as a consultant for general insurance~~ other than a person licensed for limited lines credit insurance shall, during each ~~calendar year~~ 24-month period, complete at least ~~40~~ 24 credit hours of approved continuing education;

~~(b) a person licensed to act as an insurance producer for life or disability insurance or as a consultant~~

~~for life insurance shall, during each calendar year, complete at least 10 credit hours of approved continuing education;~~

~~—— (c) a person holding multiple licenses shall, during each calendar year, complete at least 15 credit hours of approved continuing education;~~

~~(d)(b)~~ a person licensed to act as an insurance producer only for limited lines credit life and disability insurance shall, during each ~~calendar year~~ biennium, complete ~~2 1/2~~ 5 credit hours of approved continuing education in the areas of insurance law, ethics, or ~~credit life and disability~~ limited lines credit insurance;

~~(e)(c)~~ a person licensed as an insurance producer or consultant shall, during each biennium, complete at least 1 credit hour of approved continuing education on changes in Montana insurance statutes and administrative rules.

(2) If a person licensed as an insurance producer or consultant completes more credit hours of approved continuing education in a ~~year~~ biennium than the minimum required in subsection (1), the excess credit hours may be carried forward and applied to the continuing education requirements of the next ~~year~~ biennium.

(3) The commissioner may, for good cause, grant an extension of time, not to exceed 1 year, during which the requirements imposed by subsection (1) may be completed.

(4) The minimum continuing education requirements do not apply to:

~~(a) a person licensed to sell any kind of insurance for which an examination is not required under 33-17-212(6)(d) through (6)(l);~~

~~—— (b)(a)~~ a person holding a temporary license issued under 33-17-216; or

~~(c) a newly licensed insurance producer or consultant during the calendar year in which the licensee first received a license;~~

~~—— (d) a person who only executes surety bail bonds; or~~

~~—— (e)(b)~~ an insurance producer or consultant otherwise exempted by the commissioner."

Section 24. Section 33-17-1205, MCA, is amended to read:

"33-17-1205. Compliance -- failure to comply -- rulemaking authority. (1) Each person subject to the requirements of 33-17-1203 shall file ~~annually on a form~~ biennially in a format supplied by the commissioner ~~written~~ certification as to the approved courses, lectures, seminars, and instructional programs successfully completed by that person during the preceding ~~calendar year~~ biennium.

(2) ~~The commissioner may suspend the license of any person failing to comply with subsection (1) who has not been granted an extension under 33-17-1203 and may impose a late renewal fee of \$20, which is the~~

~~same amount previously determined by an administrative rule in effect on November 3, 1998. The suspension must remain in effect until the time that the person demonstrates to the satisfaction of the commissioner that the person has complied with all the provisions of this part. If the license of an insurance producer or consultant is suspended by reason of this section for a period exceeding 12 months, the license must be terminated upon notice to the insurance producer or consultant.~~ If a person fails to comply with this section, the person's license lapses.

(3) In the continuing education affidavit, an insurance producer shall report to the commissioner the final disposition of any administrative action or the final disposition of any criminal action taken against the insurance producer in another jurisdiction or by another governmental agency in this state. As used in this subsection, "final disposition of any criminal action" means a plea agreement or sentence and judgment.

~~(3)~~(4) Each person providing approved courses, lectures, seminars, and instructional programs, including insurance company education programs, shall file annually with the commissioner an alphabetical list of the names and addresses of all persons who have successfully completed an approved continuing education activity during the preceding calendar year.

~~(4)~~(5) The commissioner may, following the process provided for in 33-1-314, withdraw approval of all courses, lectures, seminars, and instructional programs of any person that fails to comply with subsection ~~(3)~~ (4). The commissioner may, after having conducted a hearing pursuant to 33-1-701, impose a fine upon a person that has failed to comply with subsection ~~(3)~~ (4). The fine may not exceed the penalty permitted by 33-1-317.

(6) The commissioner may adopt rules establishing the requirements for biennial filing and reporting of continuing education credits."

Section 25. Section 33-17-1207, MCA, is amended to read:

"33-17-1207. Funding for continuing education program. All ~~annual~~ continuing education filing fees collected by the commissioner and fees paid to the commissioner for the review of initial applications for approval of continuing education courses or the periodic review of these courses must be turned over promptly to the state treasurer who shall place the money in the state special revenue fund to the credit of the state auditor's office to be used for the continuing education program. The funds allocated by this section to the state special revenue fund may be used only to defray the expenses of the state auditor's office in discharging its duties as prescribed by this part, subject to the applicable laws relating to the appropriation of state funds and to the deposit and expenditure of state money. The state auditor is responsible for the proper expenditure of this money as provided by law."

NEW SECTION. Section 26. Coordination instruction. If ____ Bill No. ____ [LC 797] and [this act] are passed and approved, then [section 8] of this act, amending 33-2-708, is amended to read:

"Section 8. Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) (a) Except as provided in 33-17-212(2), the commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, ~~100.00~~ \$100;

(B) ~~annual~~ biennial renewal of license ~~10.00~~ \$50;

(C) lapsed license reinstatement fee, \$100;

(ii) resident insurance producer's license lapsed license reinstatement fee, \$100;

~~(ii)~~ (iii) surplus lines insurance producer producer's license:

(A) application for original license and for issuance of license, if issued, ~~50.00~~ \$50;

(B) ~~annual~~ biennial renewal of license ~~50.00~~ \$100;

(C) lapsed license reinstatement fee, \$200;

(iv) insurance adjuster's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(v) insurance consultant's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(vi) resident and nonresident rental car entity producer's license:

(A) application for original license, including issuance of license, if issued, \$100;

(B) quarterly filing fee, \$25;

~~(iii)~~ (vii) 50 cents for each page for copies of documents on file in the commissioner's office.

(c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.

(2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization submitting courses or programs for review in any biennium.

(b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).

(3) The commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, and 33-28-201. All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.

(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded.""

NEW SECTION. **Section 27. Codification instruction.** (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 33, chapter 17, and the provisions of Title 33, chapter 17, apply to [sections 1 and 2].

(2) [Section 3] is intended to be codified as an integral part of Title 33, chapter 1, part 2, and the provisions of Title 33, chapter 1, part 2, apply to [section 3].

(3) [Section 4] is intended to be codified as an integral part of Title 33, chapter 26, and the provisions of Title 33, chapter 26, apply to [section 4].

(4) [Section 5] is intended to be codified as an integral part of Title 33, chapter 17, part 4, and the provisions of Title 33, chapter 17, part 4, apply to [section 5].

NEW SECTION. **Section 28. Effective date -- applicability.** [This act] is effective July 1, 2003, and applies to licenses issued or renewed on or after July 1, 2003.

- END -

HOUSE BILL NO. 169
INTRODUCED BY KEANE
BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS OF LICENSING FOR INSURANCE PRODUCERS, ADJUSTERS, AND CONSULTANTS; PROVIDING FOR INACTIVE STATUS FOR INSURANCE PRODUCERS SERVING IN THE ARMED FORCES; REQUIRING AN INSURANCE PRODUCER LICENSING BACKGROUND EXAMINATION AND PROVIDING EXAMINATION CRITERIA; DEFINING "CAR RENTAL INSURANCE"; REVISING THE PAYMENT OF FEES FOR LICENSES AND RENEWAL OF LICENSES RELATING TO INSURANCE; REVISING THE STATUS OF NONRESIDENT INSURANCE PRODUCERS; PROVIDING FOR BIENNIAL RENEWAL OF LICENSES AND PAYMENT OF BIENNIAL LICENSE FEES FOR CERTAIN PRODUCERS; SIMPLIFYING THE INSURANCE CONTINUING EDUCATION REQUIREMENTS; AMENDING SECTIONS ~~33-1-244~~, 33-2-305, 33-2-708, 33-7-525, 33-7-532, 33-17-102, 33-17-103, 33-17-201, 33-17-211, 33-17-212, 33-17-214, 33-17-301, 33-17-502, 33-17-503, 33-17-504, 33-17-1001, 33-17-1002, 33-17-1203, 33-17-1205, AND 33-17-1207, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Inactive status -- insurance producers serving in armed forces. (1) The commissioner may place an insurance producer on inactive status if the insurance producer enters active service in the armed forces of the United States.

(2) An insurance producer may not transact the business of insurance while on inactive status.

(3) The commissioner shall waive the continuing education requirements in 33-17-1205 and the fee in 33-2-708 while an insurance producer is on inactive status.

(4) In order to be placed on inactive status, an insurance producer shall notify the commissioner when called to active service.

(5) In order to be taken off inactive status, an insurance producer shall notify the commissioner when discharged from active service.

NEW SECTION. Section 2. Licensing background examination -- entity registry criteria. (1) (a)

Each applicant shall obtain ~~at the applicant's own cost~~ a complete background examination. THE APPLICANT OR INSURER SHALL PAY THE COST OF THE BACKGROUND APPLICATION. The background examination report must provide information to confirm:

- (i) the applicant's:
 - (A) identity;
 - (B) current address;
 - (C) professional license certification; and
 - (D) military service; and
- (ii) (A) existing or ongoing criminal investigations and court records relating to the applicant; and
- (B) regulatory agencies' disciplinary actions concerning the applicant.
- (b) The background examination is confidential and may not be held as part of the licensee's public file.
- (2) An entity may not conduct licensing background examinations unless the entity maintains a current filing with the commissioner. The filing must:
 - (a) contain a description of the criteria, standards, and procedures used in conducting the background examination;
 - (b) ensure that the examination will be based on nationally recognized criteria, standards, and procedures; and
 - (c) ensure confidentiality of the applicant's information.
- (3) The commissioner may adopt rules to further implement this section, including but not limited to rules on the length of time that a background examination is valid and rules for the electronic filing of fingerprints.

NEW SECTION. **Section 3. Rental car insurance.** Rental car insurance is insurance that:

- (1) provides coverage for periods of less than 90 days;
- (2) applies only to the rental car subject to the rental agreement; and
- (3) is limited to the following kinds of insurance:
 - (a) personal accident insurance for renters and other rental car occupants, for accidental death or dismemberment, and for medical expenses resulting from an accident that occurs with the rental car during the rental period;
 - (b) liability insurance that provides protection to the renters and other authorized drivers of a rental car for liability arising from the operation or use of the rental car during the rental period;
 - (c) personal effects insurance that provides coverage to renters and other vehicle occupants for loss of

or damage to personal effects in the rental car during the rental period; or

(d) motor club services, as defined in 61-12-301.

NEW SECTION. **Section 4. Rulemaking authority for surety insurers.** The commissioner may adopt rules regarding surety insurers who sell, solicit, or negotiate commercial bail bonds. The rules must include but are not limited to rules regarding the receipt of collateral, the description of collateral received, the penalty for failure to return collateral, and an annual list of forfeitures of bonds.

NEW SECTION. **Section 5. Status of nonresident insurance producers -- biennial renewal of license -- payment of fees.** A nonresident insurance producer's license continues in force until lapsed, suspended, revoked, or terminated. The license lapses if the licensee fails to remit a biennial renewal fee.

~~Section 6. Section 33-1-211, MCA, is amended to read:~~

~~"33-1-211. Surety insurance. Surety insurance includes:~~

~~(1) fidelity insurance which is insurance guaranteeing the fidelity of persons holding positions of public or private trust; that:~~

~~(a) guarantees the honesty or faithful performance of persons who hold positions of public or private trust;~~

~~(b) indemnifies against loss resulting from forgery or alteration of documents; or~~

~~(c) indemnifies banks, stockbrokers, insurance companies, and other financial institutions against:~~

~~(i) loss of money, securities, and other tangible property, while on the premises of the insured or in transit, through theft, deceptive practices, destruction, or disappearance;~~

~~(ii) loss of or damage to the insured's premises or furniture, fixtures, and equipment resulting from actual or attempted burglary, robbery, arson, or malicious mischief; or~~

~~(iii) liability for loss of or damage to customers' property while secured in safe deposit boxes;~~

~~(2) insurance guaranteeing the performance of contracts, other than insurance policies, and guaranteeing and executing bonds, undertakings, and contracts of suretyship insurance that covers obligations to pay the debt or be responsible for the default of another when there is a legal relationship based upon a written contract in which one person undertakes to answer to another for the debt or default of a third person resulting from the third person's failure to pay or perform as required by an underlying contract, permit, law, or rule;~~

~~(3) insurance indemnifying banks, bankers, brokers, or financial or moneyed corporations or~~

~~associations:~~

~~—— (a) against check forgery or alteration or against loss resulting from any cause of bills of exchange, notes, bonds, securities, evidences of debt, deeds, mortgages, warehouse receipts, or other valuable papers, documents, money, precious metals and articles made therefrom, jewelry, watches, necklaces, bracelets, gems, or precious and semiprecious stones, including any loss while being transported in armored motor vehicles, by mail, or by messenger but not including any other risks of transportation or navigation;~~

~~—— (b) against loss or damage to the insured's premises or to his furnishings, fixtures, equipment, safes, and vaults therein caused by burglary, robbery, theft, or criminal mischief or any attempt thereat commercial bail bonds issued to ensure the presence of a criminal defendant at a court proceeding pursuant to 46-9-403(4).~~"

Section 6. Section 33-2-305, MCA, is amended to read:

"33-2-305. Licensing of surplus lines insurance producer -- fee and bond. (1) A person may not place a contract of surplus lines insurance with an unauthorized insurer unless the person is licensed as a property and casualty insurance producer and possesses a current surplus lines insurance license issued by the commissioner.

(2) The commissioner shall issue a surplus lines insurance producer's license to any qualified holder of a current property and casualty insurance producer license only if the insurance producer has:

(a) remitted to the commissioner the annual fee prescribed by 33-2-708;

(b) submitted to the commissioner a completed license application on a form supplied by the commissioner; and

(c) been licensed as a property and casualty insurance producer continuously for 5 years or more; ~~and~~

~~—— (d) filed with the commissioner and, for as long as the license remains in effect, kept in force a bond in favor of the state of Montana in the amount of \$10,000, with authorized corporate sureties approved by the commissioner. The bond must be conditioned that the insurance producer will conduct business under the license in accordance with the provisions of The Surplus Lines Insurance Law and that the insurance producer will promptly remit the taxes provided in 33-2-311. The bond may not be terminated unless the surety gives the surplus lines insurance producer, the producing insurance producer, and the commissioner at least 30 days' prior written notice of termination.~~

(3) ~~The license expires on April 1 after its date of issue. A surplus lines insurance producer shall renew the license on or before March 1 of each year upon payment of the annual renewal fee prescribed in 33-2-708. A surplus lines insurance producer who fails to apply for a renewal of the license on or before March 1 shall pay~~

~~a fine of \$100 before the commissioner renews the license~~ licensee shall renew the license on a form prescribed by the commissioner. The commissioner may establish rules for biennial renewal of the license. A license lapses if not renewed.

(4) A corporation is eligible to be licensed as a surplus lines insurance producer if:

(a) the corporate license lists the individuals within the corporation who have satisfied the requirements of this part to become surplus lines insurance producers; and

(b) only those individuals listed on the corporate license transact surplus lines insurance.

(5) This section may not be construed to require agents, producers, or brokers acting as intermediaries between a surplus lines insurance producer and an unauthorized insurer under this part to hold a valid Montana surplus lines insurance producer's license."

Section 7. Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) (a) Except as provided in 33-17-212(2), the commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, ~~100.00~~ \$100;

(B) ~~annual~~ biennial renewal of license, ~~10.00~~ \$50;

(C) lapsed license reinstatement fee, \$100;

(ii) resident insurance producer's license lapsed license reinstatement fee, \$100;

~~(ii)~~ (iii) surplus lines insurance producer's license:

(A) application for original license and for issuance of license, if issued, ~~50.00~~ \$50;

(B) ~~annual~~ biennial renewal of license, ~~50.00~~ \$100;

(C) lapsed license reinstatement fee, \$200;

(iv) insurance adjuster's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(v) insurance consultant's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(iii)(vi) 50 cents for each page for copies of documents on file in the commissioner's office.

(c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.

(2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization submitting courses or programs for review in any biennium.

(b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).

(3) The commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, and 33-28-201. All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.

(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded."

Section 8. Section 33-7-525, MCA, is amended to read:

"33-7-525. Insurance producer defined -- fraternal benefit society insurance contracts. (1) The term "insurance producer", as used in this chapter, means any authorized or acknowledged insurance producer of a society who acts as ~~such an insurance producer~~ in the solicitation, negotiation, or ~~procurement or making sale~~ of a life insurance, accident and health insurance, or annuity contract.

(2) The term "~~insurance producer~~" does not include any regular salaried officer or employee of a licensed society who devotes substantially all of ~~his~~ the officer's or employee's services to activities other than the solicitation of fraternal insurance contracts from the public and who receives for the solicitation of ~~such~~ the contracts no commission or other compensation directly dependent upon the amount of business obtained."

Section 9. Section 33-7-532, MCA, is amended to read:

"33-7-532. Producer Insurance producer licensing -- fraternal benefit society. (1) A society's insurance producer ~~must be~~ is considered to be an insurance producer and is subject to the same licensing

requirements as insurance producers under Title 33, chapter 17, ~~except that an examination is not required of an individual who is licensed in this state as an insurance producer for a society as to the kind of insurance to be transacted on or before October 1, 1981, and who continues to be licensed as an insurance producer.~~

(2) A society doing business in this state may not pay to a person who is not a licensed insurance producer of the society any commission or other compensation for any services in obtaining in this state any new contract of life, accident, or health insurance or any new annuity contract."

Section 10. Section 33-17-102, MCA, is amended to read:

"33-17-102. Definitions. As used in this title, the following definitions apply:

(1) (a) "Adjuster" means a person who, on behalf of the insurer, for compensation as an independent contractor or as the employee of an independent contractor or for a fee or commission investigates and negotiates the settlement of claims arising under insurance contracts or otherwise acts on behalf of the insurer.

(b) The term does not include a:

~~(a)~~(i) licensed attorney who is qualified to practice law in this state;

~~(b)~~(ii) salaried employee of an insurer or of a managing general agent;

~~(c)~~(iii) licensed insurance producer who adjusts or assists in adjustment of losses arising under policies issued by the insurer; or

~~(d)~~(iv) licensed third-party administrator who adjusts or assists in adjustment of losses arising under policies issued by the insurer.

(2) "Adjuster license" means a document issued by the commissioner that authorizes a person to act as an adjuster.

(3) (a) "Administrator" means a person who collects charges or premiums from residents of this state in connection with life, disability, property, or casualty insurance or annuities or who adjusts or settles claims on these coverages.

(b) The term does not ~~mean~~ include:

(i) an employer on behalf of its employees or on behalf of the employees of one or more subsidiaries of affiliated corporations of the employer;

(ii) a union on behalf of its members;

(iii) (A) an insurer that is either authorized in this state or acting as an insurer with respect to a policy lawfully issued and delivered by it in and pursuant to the laws of a state in which the insurer is authorized to transact insurance; or

- (B) a health service corporation as defined in 33-30-101;
 - (iv) a life, disability, property, or casualty insurance producer who is licensed in this state and whose activities are limited exclusively to the sale of insurance;
 - (v) a creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;
 - (vi) a trust established in conformity with 29 U.S.C. 186 or the trustees, agents, and employees of the trust;
 - (vii) a trust exempt from taxation under section 501(a) of the Internal Revenue Code or the trustees and employees of the trust;
 - (viii) a custodian acting pursuant to a custodian account that meets the requirements of section 401(f) of the Internal Revenue Code or the agents and employees of the custodian;
 - (ix) a bank, credit union, or other financial institution that is subject to supervision or examination by federal or state banking authorities;
 - (x) a company that issues credit cards and that advances for and collects premiums or charges from its credit card holders who have authorized it to do so, if the company does not adjust or settle claims;
 - (xi) a person who adjusts or settles claims in the normal course of the person's practice or employment as an attorney and who does not collect charges or premiums in connection with life or disability insurance or annuities; or
 - (xii) a person appointed as a managing general agent in this state whose activities are limited exclusively to those described in 33-2-1501(10) and Title 33, chapter 2, part 16.
- (4) "Administrator license" means a document issued by the commissioner that authorizes a person to act as an administrator.
- (5) (a) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.
- (b) The term does not include an individual.
- ~~(5)~~(6) "Consultant" means a person who for a fee examines, appraises, reviews, or evaluates an insurance policy, annuity, or pension contract, plan, or program or who makes recommendations or gives advice on an insurance policy, annuity, or pension contract, plan, or program.
- ~~(6)~~(7) "Consultant license" means a document issued by the commissioner that authorizes a person to act as an insurance consultant.
- ~~(7) "Controlled business" means insurance procured or to be procured by or through a person upon the~~

~~life, person, property, or risks of the person or the person's spouse, employer, or business.~~

(8) "Individual" means a ~~private or natural person, as distinguished from a partnership, corporation, or association.~~

(9) "Insurance producer", except as provided in 33-17-103~~1~~:

~~—— (a) means:~~

~~—— (i) a person who solicits, negotiates, effects, procures, delivers, renews, continues, or binds:~~

~~—— (A) policies of insurance for risks residing, located, or to be performed in this state; or~~

~~—— (B) membership contracts as defined in 33-30-101;~~

~~—— (ii) a managing general agent. For purposes of this chapter, the term "managing general agent" has the same meaning as set forth in 33-2-1501.~~

~~—— (b) does not mean a customer service representative. For purposes of this definition, a "customer service representative" means a salaried employee of an insurance producer who assists and is responsible to the insurance producer~~ means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

(10) "Lapse" means the expiration of the license for failure to renew by the biennial renewal date.

~~(10)~~(11) "License" means a document issued by the commissioner that authorizes a person to act as an insurance producer for the ~~kinds of insurance~~ lines of authority specified in the document. The license itself does not create actual, apparent, or inherent authority in the holder to represent or commit an insurer to a binding agreement.

~~(11)~~(12) "Limited line credit insurance" includes credit life insurance, credit disability insurance, credit property insurance, credit unemployment insurance, involuntary unemployment insurance, mortgage life insurance, mortgage guaranty insurance, mortgage disability insurance, gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing the credit obligation and that the commissioner determines should be designated as a form of limited line credit insurance.

~~(12)~~(13) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

~~(13)~~(14) "Limited lines insurance" means those lines of insurance ~~defined in 33-1-211 through 33-1-219 or any other line of insurance~~ that the commissioner finds necessary to recognize for the purposes of complying with 33-17-401(3).

~~(14)~~(15) "Limited lines producer" means a person authorized by the commissioner to sell, solicit, or negotiate limited lines insurance.

~~(15)~~(16) "Lines of authority" means any kind of insurance as defined in Title 33.

(17) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract if the person engaged in negotiation either sells insurance or obtains insurance from insurers for purchasers.

~~(16)~~(18) "Person" means an individual, ~~partnership, corporation, association, or other legal entity~~ a business entity.

~~(17)~~(19) "Public adjuster" means an adjuster employed by and representing the interests of the insured.

(20) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

(21) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance.

(22) "Suspend" means to bar the use of a person's license for a period of time.

~~(18)~~(23) "Uniform application" means the national association of insurance commissioners' uniform application for resident and nonresident insurance producer licensing.

(24) "Uniform business entity application" means the national association of insurance commissioners uniform business entity application for resident and nonresident business entities."

Section 11. Section 33-17-103, MCA, is amended to read:

"33-17-103. Exemptions from definition of insurance producer. The definition of insurance producer contained in 33-17-102 does not include:

(1) ~~a person~~ an individual who is a regularly salaried officer or employee of an insurer and who is engaged in the performance of usual and customary executive, administrative, or clerical duties and whose duties do not include the negotiation, sale, or solicitation of insurance;

(2) ~~a person~~ an individual who is a salaried employee in the office of an insurance producer and who devotes ~~his~~ the individual's full time to clerical and administrative services, including the incidental taking of insurance applications and receipt of premiums in the office of ~~his~~ the individual's employer, if the ~~employee individual~~ does not receive any commissions on the applications and ~~his~~ the individual's compensation is not varied by the volume of applications or premiums ~~he~~ the individual takes or receives;

(3) a person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, or group or blanket accident and disability insurance or for the purpose of enrolling individuals under ~~such those~~ plans, issuing certificates under ~~such those~~ plans, or otherwise assisting in administering ~~such those~~ plans; if ~~no a~~ commission is not paid for the service;

(4) an employer, ~~his the employer's~~ officers; or employees, or the trustees of an employee trust plan, to the extent that the employer, officers, employees, or trustees are engaged in the administration ~~of or~~ operation of a program of employee benefits for their own employees or the employees of their subsidiaries or affiliates if the program involves the use of insurance issued by an insurer and the employer, officers, employees, or trustees are not compensated in any manner, directly or indirectly, by the insurer issuing the contracts; ~~or~~

(5) a person who is:

(a) an employee of an insurer or of an organization employed by an insurer, which insurer or organization is engaged in the inspection, rating, or classification of insurance risks or in the supervision of the training of insurance producers; and

(b) not individually engaged in the selling, solicitation, or negotiation of insurance policies and contracts;

(6) an attorney advising a client on general insurance matters, provided the attorney does not sell, solicit, or negotiate insurance; or

(7) a salaried full-time employee who counsels or advises the employer or the subsidiaries or affiliates of the employer about the life insurance or annuities if the employee does not sell or solicit insurance or receive a commission or fee;

(8) A PERSON WHOSE ACTIVITIES IN THIS STATE ARE LIMITED TO ADVERTISING WITHOUT THE INTENT TO SOLICIT INSURANCE IN THIS STATE THROUGH COMMUNICATIONS IN PRINTED PUBLICATIONS OR OTHER FORMS OF ELECTRONIC MASS MEDIA WHOSE DISTRIBUTION IS NOT LIMITED TO RESIDENTS OF THIS STATE IF THE PERSON DOES NOT SELL, SOLICIT, OR NEGOTIATE INSURANCE CONTRACTS WITH RESPECT TO RISKS LOCATED IN THIS STATE; OR

(9) A PERSON WHO IS NOT A RESIDENT OF THIS STATE WHO SELLS, SOLICITS, OR NEGOTIATES A CONTRACT OF INSURANCE FOR COMMERCIAL PROPERTY AND CASUALTY RISKS WITH RESPECT TO AN INSURED WITH RISKS LOCATED IN MORE THAN ONE STATE THAT ARE INSURED UNDER THE CONTRACT IF THE PERSON IS LICENSED IN THE STATE WHERE THE INSURED MAINTAINS ITS PRINCIPAL PLACE OF BUSINESS AND THE CONTRACT INSURES RISKS LOCATED IN THAT STATE."

Section 12. Section 33-17-201, MCA, is amended to read:

"33-17-201. License required of insurance producer -- forms -- background examinations. (1) ~~A~~ For subjects of insurance resident, located, or to be performed in this state, a A person may not in this state sell,

~~solicit, or negotiate insurance or act as or hold himself out to be an insurance producer IN THIS STATE for subjects of insurance located, residing, or to be performed in this state~~ unless licensed as an insurance producer under this chapter.

(2) The commissioner may prescribe by rule and make available the forms required in connection with application for, issuance, continuation, suspension, or termination of a license.

(3) All resident applicants shall undergo preclicensing background examinations. The applicant or insurer shall pay the cost of the background examinations.

~~(3) Unless licensed as a life insurance producer as required by this section, a person may not in this state solicit life insurance or annuities or procure applications for life insurance or annuities or engage or hold himself out as engaging in the business of analyzing or abstracting life insurance policies or annuities or of counseling or advising or giving opinions, other than as a licensed attorney, relative to insurance or annuities for fee, commission, or other compensation, other than as a salaried full-time employee counseling and advising his employer relative to the insurance interests of the employer and of the subsidiaries or business affiliates of the employer or with respect to the insurance interests of employees of the employer, subsidiaries, or affiliates under group insurance or similar insurance plans arranged by the employer or employers of the employees.~~

~~———— (4) A person licensed to sell coverage only for the all-risk federal crop insurance program shall receive a license restricted to that purpose.~~

~~———— (5) A representative of a fraternal benefit society who solicits and negotiates insurance contracts is an insurance producer and is subject to the same licensing requirements as those for an insurance producer, except that a license is not required of:~~

~~———— (a) an officer, employee, or secretary of a fraternal benefit society or of a subordinate lodge or branch of a fraternal benefit society who devotes substantially all of his time to activities other than the solicitation or negotiation of insurance contracts and who receives no commission or other compensation directly dependent upon the number or amount of insurance contracts solicited or negotiated; or~~

~~———— (b) a representative of a fraternal benefit society who devotes or intends to devote less than 50% of his time to the solicitation and procurement of insurance contracts for the fraternal benefit society. A person who in the preceding calendar year has solicited and procured life insurance with a face amount in excess of \$50,000 or, in the case of any other kind or kinds of insurance that the fraternal benefit society may write, on more than 25 individuals and who has received or will receive a commission or other compensation for the insurance is presumed to be devoting or intending to devote, 50% of his time to the solicitation or procurement of insurance contracts for the fraternal benefit society.~~

~~———(6) The commissioner may not grant or extend a license to a person if the license is being or will be used to write controlled business. The commissioner shall consider a license to have been, or intended to be, used for the purpose of writing controlled business if, during any 12-month period, the aggregate amount of premiums on controlled business would exceed the aggregate amount of premiums on all other insurance business of the applicant or licensee."~~

Section 13. Section 33-17-211, MCA, is amended to read:

"33-17-211. General qualifications -- application for license. (1) An individual applying for a license shall apply on a form specified by the commissioner and declare under penalty of refusal, suspension, or revocation of the license that statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall verify that the individual:

- (a) is 18 years of age or older;
- (b) has not committed an act that is a ground for refusal, suspension, or revocation as set forth in 33-17-1001;
- (c) has paid the license fees stated in 33-2-708;
- (d) has successfully passed the examinations for each kind of insurance for which the individual has applied within 12 months of application;
- (e) is a resident of this state or of another state that grants similar privileges to residents of this state. Licenses issued based upon Montana state residency terminate if the licensee relocates to another state.
- (f) is competent, trustworthy, and of good reputation;
- (g) has experience or training or otherwise is qualified in the kind or kinds of insurance for which the applicant applies to be licensed and is reasonably familiar with the provisions of this code that govern the applicant's operations as an insurance producer; ~~and~~
- (h) if applying for a license as to life or disability insurance:
 - (i) is not a funeral director, undertaker, or mortician operating in this or any other state;
 - (ii) is not an officer, employee, or representative of a funeral director, undertaker, or mortician operating in this or any other state; or
 - (iii) does not hold an interest in or benefit from a business of a funeral director, undertaker, or mortician operating in this or any other state; and
 - (i) has completed a background examination pursuant to [section 2].

(2) A resident or nonresident business entity acting as an insurance producer is required to obtain an insurance producer's license. Application must be made using the uniform business entity application. In order to approve the application, the commissioner shall verify that:

- (a) the business entity has paid the appropriate fee; and
- (b) the business entity has designated an individual licensed insurance producer who is responsible for the business entity's compliance with the insurance laws of this state.

~~(2)~~(3) A person acting as an insurance producer shall obtain a license. A person shall apply for a license on a form specified by the commissioner. Before approving the application, the commissioner shall verify that:

- (a) the person meets the requirements listed in subsection (1);
- (b) the person has paid the licensing fees stated in 33-2-708 for each individual licensed in conjunction with the person's license. A licensed person shall promptly notify the commissioner of each change relating to an individual listed in the license.
- (c) the person has designated a licensed officer responsible for compliance by the person with the insurance laws and rules of this state;
- (d) each member and employee of a partnership and each officer, director, stockholder, or employee of a corporation who is acting as an insurance producer in this state has obtained a license;
- (e) (i) if the person is a partnership or corporation, the transaction of insurance business is within the purposes stated in the partnership agreement or the articles of incorporation; and
- (ii) if the person is a corporation, the secretary of state has issued a certificate of existence or authority under 35-1-1312 or filed articles of incorporation under 35-1-220.

~~(3)~~(4) The commissioner may license as a resident insurance producer an association of licensed Montana insurance producers, whether or not incorporated, formed and existing substantially for purposes other than insurance. The license must be used solely for the purpose of enabling the association to place, as a resident insurance producer, insurance of the properties, interests, and risks of the state of Montana and of other public agencies, bodies, and institutions and to receive the customary commission for the placement. The president and secretary of the association shall apply for the license in the name of the association, and the commissioner shall issue the license to the association in its name alone. The fee for the license is the same as that required by 33-2-708(1)(a). The commissioner may, after a hearing with notice to the association, revoke the license if the commissioner finds that continuation of the license is not in the public interest or that a ground listed in 33-17-1001 exists.

~~(4)~~(5) An insurance producer using an assumed business name shall register the name with the

commissioner before using it."

Section 14. Section 33-17-212, MCA, is amended to read:

"33-17-212. Examination required -- exceptions -- fees. (1) Except as provided in subsection (6), an individual applying for a license is required to pass a written examination. The examination must test the knowledge of the individual concerning each kind of insurance listed in subsection (5) for which application is made, the duties and responsibilities of an insurance producer, and the insurance laws and rules of this state. The examination must be developed and conducted under rules adopted by the commissioner.

(2) The commissioner may conduct the examination or make arrangements, including contracting with an outside testing service, for administering the examination. The commissioner may arrange for the testing service to recover the cost of the examination from the applicant.

(3) An individual who fails to appear for the examination as scheduled or fails to pass the examination may reapply for an examination and shall remit all forms before being rescheduled for another examination.

(4) If the applicant is a partnership or corporation, each individual who is to be named in the license as having authority to act for the applicant in its insurance transactions under the license shall meet the qualifications as provided in this section.

(5) Examination of an applicant for a license must cover all of the kinds of insurance for which the applicant has applied to be licensed, as constituted by any one or more of the following classifications:

- (a) life insurance;
- (b) disability insurance;
- (c) property insurance. For the purposes of this provision, property insurance includes marine insurance.
- (d) casualty insurance;
- (e) surety insurance;
- (f) ~~credit life and disability~~ limited lines credit insurance;
- (g) title insurance.

(6) This section does not apply to and an examination is not required of:

(a) an individual lawfully licensed as an insurance producer as to the kind or kinds of insurance to be transacted as of or immediately prior to January 1, 1961, and who continues to be licensed;

(b) an applicant for a license covering the same kind or kinds of insurance as to which the applicant was licensed in this state, other than under a temporary license, within the 12 months immediately preceding the date of application unless the commissioner has suspended, revoked, or ~~refused to continue~~ terminated the previous

license, except that this subsection (6)(b) does not apply to a title insurance producer, as defined in 33-25-105;

(c) an applicant for a license as a nonresident insurance producer;

~~(d) an applicant for a license to sell all-risk federal crop insurance if the applicant provides certification from an appropriate governmental agency to the commissioner that the applicant is qualified to sell the insurance;~~

~~—— (e)(d) transportation ticket agents of common carriers applying for a license to solicit and sell only:~~

(i) accident insurance ticket policies; or

(ii) insurance of personal effects while being carried as baggage on a common carrier, as incidental to their duties as transportation ticket agents;

~~(f)(e)~~ an association applying for a license under 33-17-211;

~~(g) a mechanical breakdown insurance producer;~~

~~—— (h) a prepaid legal plans producer;~~

~~—— (i) a gap insurance producer;~~

~~—— (j) involuntary unemployment insurance producer;~~

~~—— (k) a credit property insurance, credit unemployment insurance, or mortgage guaranty insurance producer; or~~

~~(f)(f)~~ an individual who, within 60 90 days of cancellation of a license issued by the state of the individual's residence, files with the commissioner a current letter of clearance certifying that the individual has passed an examination and held an insurance license in good standing in the individual's state of licensure, except that the individual shall take an examination pertaining to this state's law and each kind of insurance for which the individual has applied for a license and that is not covered under the license held in the other state.

(7) (a) Subject to the provisions of subsection (7)(b), an individual who applies for a nonresident insurance producer license in this state and who was previously licensed for the same lines of authority in another state may not be required to complete any preclicensing education or examination.

(b) The exemption in subsection (7)(a) is available only if the individual is currently licensed in the other state or the individual's application is received within 90 days of the cancellation of the individual's previous license and if the other state issues a certification that, at the time of the cancellation, the individual was in good standing in that state or the state's database records, maintained by the national association of insurance commissioners or any of the association's affiliates or subsidiaries that the association oversees, indicate that the insurance producer is or was licensed in good standing for the lines of authority requested."

Section 15. Section 33-17-214, MCA, is amended to read:

"33-17-214. Issuance of license -- insurance producer lines of authority -- license data -- lapse of license -- change of address. (1) A person who has met the requirements of 33-17-211 and 33-17-212 must be issued a license, unless that person has been denied a license pursuant to 33-17-1001.

(2) An insurance producer may receive a license qualifying the insurance producer in one or more of the following lines of authority:

(a) life insurance coverage on human lives, including benefits of endowment and annuities, and the coverage may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(b) accident and health or sickness insurance coverage providing for sickness, bodily injury, or accidental death, and the coverage may provide benefits for disability income;

(c) property insurance coverage for the direct or consequential loss or damage to property of every kind;

(d) casualty insurance coverage against legal liability, including liability for death, injury, or disability or damage to real or personal property;

(e) variable life and variable annuity products insurance coverage provided under variable life insurance contracts and variable annuities;

(f) personal lines of property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;

(g) limited line credit insurance; or

(h) any other line of insurance permitted under Title 33.

(3) The license must state the name and address of the licensee, personal identification number, date of issuance, general conditions relative to expiration or termination, kind of insurance covered, and other information that the commissioner considers necessary.

(4) The license of a partnership, corporation, or association must also state the name of each individual authorized to exercise the license powers.

(5) Each license remains in effect, unless it is suspended, or revoked, or terminated or the license lapses.

(6) A person shall inform the commissioner in writing of a change of address within 30 days of the change."

Section 16. Section 33-17-301, MCA, is amended to read:

"33-17-301. Adjuster license -- qualifications -- catastrophe adjustments -- public adjuster. (1) A

~~person~~ An individual may not act as or purport to be an adjuster in this state unless licensed as an adjuster under this chapter. ~~A person~~ An individual shall apply for an adjuster license to the commissioner according to forms that the commissioner prescribes and furnishes. The commissioner shall issue the adjuster license to individuals qualified to be licensed as an adjuster.

(2) To be licensed as an adjuster, the applicant:

(a) must be an individual 18 years of age or more;

(b) must be a resident of Montana or resident of another state that will permit residents of Montana regularly to act as adjusters in the other state;

~~(c) must be a full-time salaried employee of a licensed adjuster or a graduate of a recognized law school or have had experience or special education or training as to the handling of loss claims under insurance contracts of sufficient duration and extent reasonably to make the applicant competent to fulfill the responsibilities of an adjuster~~ shall pass an adjuster licensing examination as prescribed by the commissioner and pay the fee pursuant to 33-2-708;

(d) must be trustworthy and of good character and reputation; and

(e) must have and shall maintain in this state an office accessible to the public and shall keep in the office for not less than 5 years the usual and customary records pertaining to transactions under the license. This provision does not prohibit maintenance of the office in the home of the licensee.

(3) A partnership or corporation, whether or not organized under the laws of this state, may be licensed as an adjuster if each individual who is to exercise the adjuster license powers is separately licensed or is named in the partnership or corporation adjuster license and is qualified for an individual adjuster license.

(4) An adjuster license or qualifications are not required for an adjuster who is sent into this state by and on behalf of an insurer or adjusting partnership or corporation for the purpose of investigating or making adjustments of a particular loss under an insurance policy or for the adjustment of a series of losses resulting from a catastrophe common to all losses.

(5) An adjuster license continues in force until ~~expired~~ lapsed, suspended, revoked, or terminated. ~~The license is subject to renewal upon written request to the commissioner~~ The licensee shall renew the license by the biennial renewal date and pay the appropriate fee or the license will lapse. The biennial fee is established pursuant to 33-2-708.

(6) The commissioner may adopt rules providing for the examination, licensure, bonding, and regulation of public adjusters."

Section 17. Section 33-17-502, MCA, is amended to read:

"33-17-502. Prohibition on holding out as consultant -- receiving fee. (1) A person not licensed as an insurance consultant in this state who identifies or represents to the public that the person is an insurance consultant without having been licensed as an insurance consultant under this part or a person who uses any other designation or title that is likely to mislead the public and represents to the public that the person has particular insurance qualifications other than those for which the person may be otherwise licensed or otherwise qualified ~~is guilty of a misdemeanor and upon conviction shall be fined \$1,500~~ may be fined pursuant to 33-1-317.

(2) A person not licensed as an insurance consultant with respect to the relevant kinds of insurance who receives a fee for examining, appraising, reviewing, or evaluating any insurance policy, annuity or pension contract, plan, or program or who makes recommendations or gives advice with regard to any insurance policy, annuity or pension contract, plan, or program without first having been licensed by the commissioner as an insurance consultant ~~is guilty of a misdemeanor and upon conviction shall be fined \$1,500~~ may be fined pursuant to 33-1-317.

(3) This part does not apply to:

- (a) licensed attorneys at law in this state acting in their professional capacity; or
- (b) an actuary or a certified public accountant who provides information, recommendations, advice, or services in a professional capacity if neither the actuary nor the certified public accountant or the actuary's or certified public accountant's employer receives any compensation directly or indirectly on account of any insurance, bond, annuity or pension contract that results in whole or part from that information, recommendation, advice, or services."

Section 18. Section 33-17-503, MCA, is amended to read:

"33-17-503. Application -- fee -- expiration. (1) Before a consultant license is issued or renewed, the prospective licensee shall:

- (a) properly file in the office of the commissioner a written application on forms the commissioner prescribes; and
- (b) pay a fee of \$50, ~~which the commissioner shall deposit with the state treasurer to be credited to the state's general fund pursuant to 33-2-708.~~

(2) ~~Each consultant license must be renewed each year by the consultant paying a continuation fee on or before May 31, and the license continues in force unless suspended, revoked, or otherwise terminated. A consultant license continues in force until lapsed, suspended, revoked, or terminated."~~

Section 19. Section 33-17-504, MCA, is amended to read:

"33-17-504. Issuing license -- limitations. The commissioner may issue a consultant license to an individual who has complied with the requirements of this chapter with respect to either life insurance, meaning all of those kinds of insurance authorized in 33-1-207, 33-1-208, 33-20-1001, 33-21-103, 33-22-501, and 33-22-601, or general insurance, meaning all of those kinds of insurance authorized in 33-1-206, 33-1-207, 33-1-209 through 33-1-212, 33-1-214 through 33-1-219, and 33-1-221 through 33-1-229, as specified in the license."

Section 20. Section 33-17-1001, MCA, is amended to read:

"33-17-1001. Suspension, revocation, or refusal of license. (1) The commissioner may suspend, revoke, refuse to renew, or refuse to issue an insurance producer's license, adjuster license, or consultant license, or may levy a civil penalty in accordance with 33-1-317, or may choose any combination of actions; when an insurance producer, adjuster, consultant, or applicant for ~~an insurance producer's license~~ those licenses has:

(a) engaged or is about to engage in an act or practice for which issuance of the license could have been refused;

(b) obtained or attempted to obtain a license through misrepresentation or fraud, including but not limited to providing incorrect, misleading, incomplete, or materially untrue information in the license application or in the continuing education affidavit;

(c) violated or failed to comply with a provision of this code or has violated a rule, subpoena, or order of the commissioner or of the commissioner of any other state;

(d) improperly withheld, misappropriated, or converted to the licensee's or applicant's own use money or property belonging to policyholders, insurers, beneficiaries, or others and received in conduct of business under the license;

(e) been convicted of a felony;

(f) in the conduct of the affairs under the license, used fraudulent, coercive, or dishonest practices or the licensee or applicant is incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the public;

~~(g) made a materially untrue statement in the license application or in the continuing education affidavit;~~

~~—(h)(g) misrepresented the terms of an actual or proposed insurance contract or application for insurance;~~

~~(i)(h)~~ been found guilty of an unfair trade practice or fraud prohibited by Title 33, chapter 18;

~~(j)(i)~~ had a similar license suspended or revoked in any other state;

~~(k)(j)~~ forged another's name to an application for insurance or to any document related to an insurance transaction;

~~(h)(k)~~ cheated on an examination for a license; or

~~(m)(l)~~ knowingly accepted insurance business from a person who is not licensed.

(2) The license of a partnership or corporation may be suspended, revoked, refused, or denied if a reason listed in subsection (1) applies to an individual designated in the license to exercise its powers.

~~(3) The commissioner may suspend, revoke, or refuse to continue a license under subsection (1)(e) without conducting an investigation pursuant to 37-1-203 or making a written finding pursuant to 37-1-204. The commissioner retains the authority to enforce the provisions of and impose any penalty or remedy authorized by the insurance code against any person who is under investigation for or charged with a violation of the insurance code even if the person's license or registration has been surrendered or has lapsed."~~

Section 21. Section 33-17-1002, MCA, is amended to read:

"33-17-1002. Procedure following suspension or revocation. (1) Upon suspension, ~~or revocation,~~ or refusal of a license, the commissioner shall immediately notify the licensee ~~of the suspension or revocation either in person or~~ or applicant by mail addressed to the licensee or applicant at ~~his~~ the last-known address ~~last of record with~~ contained in the records of the commissioner. Notice ~~by mail~~ is effectuated when ~~the notice is~~ mailed.

~~(2)~~ (2) The commissioner may reissue a license that has lapsed if the insurance producer has paid the lapsed license reinstatement fee pursuant to 33-2-708 and has filed certification of completion of continuing education requirements for the preceding biennium within 1 year of the lapse occurring.

~~(2)(3)~~ (3) The commissioner may not again issue a license under this code to a person whose license has been revoked until after expiration of 1 year and ~~thereafter not~~ until the person again qualifies for a license in accordance with this code. If the commissioner revokes a person's license, the commissioner may refuse to issue a license to the person for up to 5 years after the revocation. A person whose license has been revoked twice is not again eligible for any license under this code.

~~(3)(4)~~ (4) If the license of a partnership or corporation is suspended or revoked, ~~no~~ a member of the partnership or officer or director of the corporation may not be licensed or be designated in a license to exercise its powers during the period of the suspension or revocation unless the commissioner determines upon substantial evidence that the member, officer, or director was not personally at fault and did not acquiesce in the matter on account of which the license was suspended or revoked."

Section 22. Section 33-17-1203, MCA, is amended to read:

"33-17-1203. Continuing education -- basic requirements -- exceptions. (1) Unless exempt under subsection (4):

(a) a person licensed to act as an insurance producer ~~for property, casualty, surety, or title insurance~~ or as a consultant ~~for general insurance~~ other than a person licensed for limited lines credit insurance shall, during each ~~calendar year~~ 24-month period, complete at least ~~10~~ 24 credit hours of approved continuing education;

~~(b) a person licensed to act as an insurance producer for life or disability insurance or as a consultant for life insurance shall, during each calendar year, complete at least 10 credit hours of approved continuing education;~~

~~—— (c) a person holding multiple licenses shall, during each calendar year, complete at least 15 credit hours of approved continuing education;~~

~~(d)(b)~~ a person licensed to act as an insurance producer only for limited lines credit ~~life and disability~~ insurance shall, during each ~~calendar year~~ biennium, complete ~~2-1/2~~ 5 credit hours of approved continuing education in the areas of insurance law, ethics, or ~~credit life and disability~~ limited lines credit insurance;

~~(e)(c)~~ a person licensed as an insurance producer or consultant shall, during each biennium, complete at least 1 credit hour of approved continuing education on changes in Montana insurance statutes and administrative rules.

(2) If a person licensed as an insurance producer or consultant completes more credit hours of approved continuing education in a ~~year~~ biennium than the minimum required in subsection (1), the excess credit hours may be carried forward and applied to the continuing education requirements of the next ~~year~~ biennium.

(3) The commissioner may, for good cause, grant an extension of time, not to exceed 1 year, during which the requirements imposed by subsection (1) may be completed.

(4) The minimum continuing education requirements do not apply to:

~~(a) a person licensed to sell any kind of insurance for which an examination is not required under 33-17-212(6)(d) through (6)(l);~~

~~—— (b)(a)~~ a person holding a temporary license issued under 33-17-216; or

~~(c) a newly licensed insurance producer or consultant during the calendar year in which the licensee first received a license;~~

~~—— (d) a person who only executes surety bail bonds; or~~

~~—— (e)(b)~~ an insurance producer or consultant otherwise exempted by the commissioner."

Section 23. Section 33-17-1205, MCA, is amended to read:

"33-17-1205. Compliance -- failure to comply -- rulemaking authority. (1) Each person subject to the requirements of 33-17-1203 shall file ~~annually on a form~~ biennially in a format supplied by the commissioner ~~written~~ certification as to the approved courses, lectures, seminars, and instructional programs successfully completed by that person during the preceding ~~calendar year~~ biennium.

(2) ~~The commissioner may suspend the license of any person failing to comply with subsection (1) who has not been granted an extension under 33-17-1203 and may impose a late renewal fee of \$20, which is the same amount previously determined by an administrative rule in effect on November 3, 1998. The suspension must remain in effect until the time that the person demonstrates to the satisfaction of the commissioner that the person has complied with all the provisions of this part. If the license of an insurance producer or consultant is suspended by reason of this section for a period exceeding 12 months, the license must be terminated upon notice to the insurance producer or consultant. If a person fails to comply with this section, the person's license lapses.~~

(3) In the continuing education affidavit, an insurance producer shall report to the commissioner the final disposition of any administrative action or the final disposition of any criminal action taken against the insurance producer in another jurisdiction or by another governmental agency in this state. As used in this subsection, "final disposition of any criminal action" means a plea agreement or sentence and judgment.

~~(3)~~(4) Each person providing approved courses, lectures, seminars, and instructional programs, including insurance company education programs, shall file annually with the commissioner an alphabetical list of the names and addresses of all persons who have successfully completed an approved continuing education activity during the preceding calendar year.

~~(4)~~(5) The commissioner may, following the process provided for in 33-1-314, withdraw approval of all courses, lectures, seminars, and instructional programs of any person that fails to comply with subsection ~~(3)~~ (4). The commissioner may, after having conducted a hearing pursuant to 33-1-701, impose a fine upon a person that has failed to comply with subsection ~~(3)~~ (4). The fine may not exceed the penalty permitted by 33-1-317.

(6) The commissioner may adopt rules establishing the requirements for biennial filing and reporting of continuing education credits."

Section 24. Section 33-17-1207, MCA, is amended to read:

"33-17-1207. Funding for continuing education program. All ~~annual~~ continuing education filing fees collected by the commissioner and fees paid to the commissioner for the review of initial applications for approval

of continuing education courses or the periodic review of these courses must be turned over promptly to the state treasurer who shall place the money in the state special revenue fund to the credit of the state auditor's office to be used for the continuing education program. The funds allocated by this section to the state special revenue fund may be used only to defray the expenses of the state auditor's office in discharging its duties as prescribed by this part, subject to the applicable laws relating to the appropriation of state funds and to the deposit and expenditure of state money. The state auditor is responsible for the proper expenditure of this money as provided by law."

NEW SECTION. Section 25. Coordination instruction. If ____ Bill No. ____ [LC 797] and [this act] are passed and approved, then [section 8 7] of this act, amending 33-2-708, is amended to read:

"**Section 8 7.** Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) (a) Except as provided in 33-17-212(2), the commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, ~~100.00~~ \$100;

(B) ~~annual~~ biennial renewal of license ~~10.00~~ \$50;

(C) lapsed license reinstatement fee, \$100;

(ii) resident insurance producer's license lapsed license reinstatement fee, \$100;

~~(ii)~~ (iii) surplus lines insurance ~~producer~~ producer's license:

(A) application for original license and for issuance of license, if issued, ~~50.00~~ \$50;

(B) ~~annual~~ biennial renewal of license ~~50.00~~ \$100;

(C) lapsed license reinstatement fee, \$200;

(iv) insurance adjuster's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(v) insurance consultant's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(vi) resident and nonresident rental car entity producer's license:

(A) application for original license, including issuance of license, if issued, \$100;

(B) quarterly filing fee, \$25;

(iii)(vii) 50 cents for each page for copies of documents on file in the commissioner's office.

(c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.

(2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization submitting courses or programs for review in any biennium.

(b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).

(3) The commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, and 33-28-201. All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.

(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded.""

NEW SECTION. Section 26. Codification instruction. (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 33, chapter 17, and the provisions of Title 33, chapter 17, apply to [sections 1 and 2].

(2) [Section 3] is intended to be codified as an integral part of Title 33, chapter 1, part 2, and the provisions of Title 33, chapter 1, part 2, apply to [section 3].

(3) [Section 4] is intended to be codified as an integral part of Title 33, chapter 26, and the provisions of Title 33, chapter 26, apply to [section 4].

(4) [Section 5] is intended to be codified as an integral part of Title 33, chapter 17, part 4, and the provisions of Title 33, chapter 17, part 4, apply to [section 5].

NEW SECTION. Section 27. Effective date -- applicability. [This act] is effective July 1, 2003, and

applies to licenses issued or renewed on or after July 1, 2003.

- END -

HOUSE BILL NO. 169
INTRODUCED BY KEANE
BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS OF LICENSING FOR INSURANCE PRODUCERS, ADJUSTERS, AND CONSULTANTS; PROVIDING FOR INACTIVE STATUS FOR INSURANCE PRODUCERS SERVING IN THE ARMED FORCES; REQUIRING AN INSURANCE PRODUCER LICENSING BACKGROUND EXAMINATION AND PROVIDING EXAMINATION CRITERIA; DEFINING "CAR RENTAL INSURANCE"; REVISING THE PAYMENT OF FEES FOR LICENSES AND RENEWAL OF LICENSES RELATING TO INSURANCE; REVISING THE STATUS OF NONRESIDENT INSURANCE PRODUCERS; PROVIDING FOR BIENNIAL RENEWAL OF LICENSES AND PAYMENT OF BIENNIAL LICENSE FEES FOR CERTAIN PRODUCERS; SIMPLIFYING THE INSURANCE CONTINUING EDUCATION REQUIREMENTS; AMENDING SECTIONS ~~33-1-244~~, 33-2-305, 33-2-708, 33-7-525, 33-7-532, 33-17-102, 33-17-103, 33-17-201, 33-17-211, 33-17-212, 33-17-214, 33-17-301, 33-17-502, 33-17-503, 33-17-504, 33-17-1001, 33-17-1002, 33-17-1203, 33-17-1205, AND 33-17-1207, MCA; AND PROVIDING AN EFFECTIVE DATE AND ~~AN~~ APPLICABILITY ~~DATE~~ DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Inactive status -- insurance producers serving in armed forces.** (1) The commissioner may place an insurance producer on inactive status if the insurance producer enters active service in the armed forces of the United States.

(2) An insurance producer may not transact the business of insurance while on inactive status.

(3) The commissioner shall waive the continuing education requirements in 33-17-1205 and the fee in 33-2-708 while an insurance producer is on inactive status.

(4) In order to be placed on inactive status, an insurance producer shall notify the commissioner when called to active service.

(5) In order to be taken off inactive status, an insurance producer shall notify the commissioner when discharged from active service.

NEW SECTION. **Section 2. Licensing background examination -- entity registry criteria.** (1) (a)

Each applicant shall obtain ~~at the applicant's own cost~~ a complete background examination. THE APPLICANT OR INSURER SHALL PAY THE COST OF THE BACKGROUND APPLICATION EXAMINATION. The background examination report must provide information to confirm:

- (i) the applicant's:
 - (A) identity;
 - (B) current address;
 - (C) professional license certification; and
 - (D) military service; and
- (ii) (A) existing or ongoing criminal investigations and court records relating to the applicant; and
- (B) regulatory agencies' disciplinary actions concerning the applicant.
- (b) The background examination is confidential and may not be held as part of the licensee's public file.
- (2) An entity may not conduct licensing background examinations unless the entity maintains a current filing with the commissioner. The filing must:
 - (a) contain a description of the criteria, standards, and procedures used in conducting the background examination;
 - (b) ensure that the examination will be based on nationally recognized criteria, standards, and procedures; and
 - (c) ensure confidentiality of the applicant's information.
- (3) The commissioner may adopt rules to further implement this section, including but not limited to rules on the length of time that a background examination is valid and rules for the electronic filing of fingerprints.

NEW SECTION. **Section 3. Rental car insurance.** Rental car insurance is insurance that:

- (1) provides coverage for periods of less than 90 days;
- (2) applies only to the rental car subject to the rental agreement; and
- (3) is limited to the following kinds of insurance:
 - (a) personal accident insurance for renters and other rental car occupants, for accidental death or dismemberment, and for medical expenses resulting from an accident that occurs with the rental car during the rental period;
 - (b) liability insurance that provides protection to the renters and other authorized drivers of a rental car for liability arising from the operation or use of the rental car during the rental period;
 - (c) personal effects insurance that provides coverage to renters and other vehicle occupants for loss of

or damage to personal effects in the rental car during the rental period; or

(d) motor club services, as defined in 61-12-301.

NEW SECTION. **Section 4. Rulemaking authority for surety insurers.** The commissioner may adopt rules regarding surety insurers who sell, solicit, or negotiate commercial bail bonds. The rules must include but are not limited to rules regarding the receipt of collateral, the description of collateral received, the penalty for failure to return collateral, and an annual list of forfeitures of bonds.

NEW SECTION. **Section 5. Status of nonresident insurance producers -- biennial renewal of license -- payment of fees.** A nonresident insurance producer's license continues in force until lapsed, suspended, revoked, or terminated. The license lapses if the licensee fails to remit a biennial renewal fee.

~~Section 6. Section 33-1-211, MCA, is amended to read:~~

~~"33-1-211. Surety insurance. Surety insurance includes:~~

~~(1) fidelity insurance which is insurance guaranteeing the fidelity of persons holding positions of public or private trust; that:~~

~~(a) guarantees the honesty or faithful performance of persons who hold positions of public or private trust;~~

~~(b) indemnifies against loss resulting from forgery or alteration of documents; or~~

~~(c) indemnifies banks, stockbrokers, insurance companies, and other financial institutions against:~~

~~(i) loss of money, securities, and other tangible property, while on the premises of the insured or in transit, through theft, deceptive practices, destruction, or disappearance;~~

~~(ii) loss of or damage to the insured's premises or furniture, fixtures, and equipment resulting from actual or attempted burglary, robbery, arson, or malicious mischief; or~~

~~(iii) liability for loss of or damage to customers' property while secured in safe deposit boxes;~~

~~(2) insurance guaranteeing the performance of contracts, other than insurance policies, and guaranteeing and executing bonds, undertakings, and contracts of suretyship insurance that covers obligations to pay the debt or be responsible for the default of another when there is a legal relationship based upon a written contract in which one person undertakes to answer to another for the debt or default of a third person resulting from the third person's failure to pay or perform as required by an underlying contract, permit, law, or rule;~~

~~(3) insurance indemnifying banks, bankers, brokers, or financial or moneyed corporations or~~

~~associations:~~

~~—— (a) against check forgery or alteration or against loss resulting from any cause of bills of exchange, notes, bonds, securities, evidences of debt, deeds, mortgages, warehouse receipts, or other valuable papers, documents, money, precious metals and articles made therefrom, jewelry, watches, necklaces, bracelets, gems, or precious and semiprecious stones, including any loss while being transported in armored motor vehicles, by mail, or by messenger but not including any other risks of transportation or navigation;~~

~~—— (b) against loss or damage to the insured's premises or to his furnishings, fixtures, equipment, safes, and vaults therein caused by burglary, robbery, theft, or criminal mischief or any attempt thereat commercial bail bonds issued to ensure the presence of a criminal defendant at a court proceeding pursuant to 46-9-403(4).~~"

Section 6. Section 33-2-305, MCA, is amended to read:

"33-2-305. Licensing of surplus lines insurance producer -- fee and bond. (1) A person may not place a contract of surplus lines insurance with an unauthorized insurer unless the person is licensed as a property and casualty insurance producer and possesses a current surplus lines insurance license issued by the commissioner.

(2) The commissioner shall issue a surplus lines insurance producer's license to any qualified holder of a current property and casualty insurance producer license only if the insurance producer has:

(a) remitted to the commissioner the annual fee prescribed by 33-2-708;

(b) submitted to the commissioner a completed license application on a form supplied by the commissioner; and

(c) been licensed as a property and casualty insurance producer continuously for 5 years or more; ~~and~~

~~—— (d) filed with the commissioner and, for as long as the license remains in effect, kept in force a bond in favor of the state of Montana in the amount of \$10,000, with authorized corporate sureties approved by the commissioner. The bond must be conditioned that the insurance producer will conduct business under the license in accordance with the provisions of The Surplus Lines Insurance Law and that the insurance producer will promptly remit the taxes provided in 33-2-311. The bond may not be terminated unless the surety gives the surplus lines insurance producer, the producing insurance producer, and the commissioner at least 30 days' prior written notice of termination.~~

(3) ~~The license expires on April 1 after its date of issue. A surplus lines insurance producer shall renew the license on or before March 1 of each year upon payment of the annual renewal fee prescribed in 33-2-708. A surplus lines insurance producer who fails to apply for a renewal of the license on or before March 1 shall pay~~

~~a fine of \$100 before the commissioner renews the license~~ licensee shall renew the license on a form prescribed by the commissioner. The commissioner may establish rules for biennial renewal of the license. A license lapses if not renewed.

(4) A corporation is eligible to be licensed as a surplus lines insurance producer if:

(a) the corporate license lists the individuals within the corporation who have satisfied the requirements of this part to become surplus lines insurance producers; and

(b) only those individuals listed on the corporate license transact surplus lines insurance.

(5) This section may not be construed to require agents, producers, or brokers acting as intermediaries between a surplus lines insurance producer and an unauthorized insurer under this part to hold a valid Montana surplus lines insurance producer's license."

Section 7. Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) (a) Except as provided in 33-17-212(2), the commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, ~~100.00~~ \$100;

(B) ~~annual~~ biennial renewal of license, ~~10.00~~ \$50;

(C) lapsed license reinstatement fee, \$100;

(ii) resident insurance producer's license lapsed license reinstatement fee, \$100;

~~(ii)(iii)~~ (iii) surplus lines insurance producer's license:

(A) application for original license and for issuance of license, if issued, ~~50.00~~ \$50;

(B) ~~annual~~ biennial renewal of license, ~~50.00~~ \$100;

(C) lapsed license reinstatement fee, \$200;

(iv) insurance adjuster's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(v) insurance consultant's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(iii)(vi) 50 cents for each page for copies of documents on file in the commissioner's office.

(c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.

(2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization submitting courses or programs for review in any biennium.

(b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).

(3) The commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, and 33-28-201. All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.

(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded."

Section 8. Section 33-7-525, MCA, is amended to read:

"33-7-525. Insurance producer defined -- fraternal benefit society insurance contracts. (1) The term "insurance producer", as used in this chapter, means any authorized or acknowledged insurance producer of a society who acts as ~~such an insurance producer~~ in the solicitation, negotiation, or ~~procurement or making sale~~ of a life insurance, accident and health insurance, or annuity contract.

(2) The term ~~"insurance producer"~~ does not include any regular salaried officer or employee of a licensed society who devotes substantially all of ~~his~~ the officer's or employee's services to activities other than the solicitation of fraternal insurance contracts from the public and who receives for the solicitation of ~~such~~ the contracts no commission or other compensation directly dependent upon the amount of business obtained."

Section 9. Section 33-7-532, MCA, is amended to read:

"33-7-532. Producer Insurance producer licensing -- fraternal benefit society. (1) A society's insurance producer ~~must be~~ is considered to be an insurance producer and is subject to the same licensing

requirements as insurance producers under Title 33, chapter 17, ~~except that an examination is not required of an individual who is licensed in this state as an insurance producer for a society as to the kind of insurance to be transacted on or before October 1, 1981, and who continues to be licensed as an insurance producer.~~

(2) A society doing business in this state may not pay to a person who is not a licensed insurance producer of the society any commission or other compensation for any services in obtaining in this state any new contract of life, accident, or health insurance or any new annuity contract."

Section 10. Section 33-17-102, MCA, is amended to read:

"33-17-102. Definitions. As used in this title, the following definitions apply:

(1) (a) "Adjuster" means a person who, on behalf of the insurer, for compensation as an independent contractor or as the employee of an independent contractor or for a fee or commission investigates and negotiates the settlement of claims arising under insurance contracts or otherwise acts on behalf of the insurer.

(b) The term does not include a:

~~(a)~~(i) licensed attorney who is qualified to practice law in this state;

~~(b)~~(ii) salaried employee of an insurer or of a managing general agent;

~~(c)~~(iii) licensed insurance producer who adjusts or assists in adjustment of losses arising under policies issued by the insurer; or

~~(d)~~(iv) licensed third-party administrator who adjusts or assists in adjustment of losses arising under policies issued by the insurer.

(2) "Adjuster license" means a document issued by the commissioner that authorizes a person to act as an adjuster.

(3) (a) "Administrator" means a person who collects charges or premiums from residents of this state in connection with life, disability, property, or casualty insurance or annuities or who adjusts or settles claims on these coverages.

(b) The term does not ~~mean~~ include:

(i) an employer on behalf of its employees or on behalf of the employees of one or more subsidiaries of affiliated corporations of the employer;

(ii) a union on behalf of its members;

(iii) (A) an insurer that is either authorized in this state or acting as an insurer with respect to a policy lawfully issued and delivered by it in and pursuant to the laws of a state in which the insurer is authorized to transact insurance; or

- (B) a health service corporation as defined in 33-30-101;
 - (iv) a life, disability, property, or casualty insurance producer who is licensed in this state and whose activities are limited exclusively to the sale of insurance;
 - (v) a creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;
 - (vi) a trust established in conformity with 29 U.S.C. 186 or the trustees, agents, and employees of the trust;
 - (vii) a trust exempt from taxation under section 501(a) of the Internal Revenue Code or the trustees and employees of the trust;
 - (viii) a custodian acting pursuant to a custodian account that meets the requirements of section 401(f) of the Internal Revenue Code or the agents and employees of the custodian;
 - (ix) a bank, credit union, or other financial institution that is subject to supervision or examination by federal or state banking authorities;
 - (x) a company that issues credit cards and that advances for and collects premiums or charges from its credit card holders who have authorized it to do so, if the company does not adjust or settle claims;
 - (xi) a person who adjusts or settles claims in the normal course of the person's practice or employment as an attorney and who does not collect charges or premiums in connection with life or disability insurance or annuities; or
 - (xii) a person appointed as a managing general agent in this state whose activities are limited exclusively to those described in 33-2-1501(10) and Title 33, chapter 2, part 16.
- (4) "Administrator license" means a document issued by the commissioner that authorizes a person to act as an administrator.
- (5) (a) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.
- (b) The term does not include an individual.
- ~~(5)~~(6) "Consultant" means a person who for a fee examines, appraises, reviews, or evaluates an insurance policy, annuity, or pension contract, plan, or program or who makes recommendations or gives advice on an insurance policy, annuity, or pension contract, plan, or program.
- ~~(6)~~(7) "Consultant license" means a document issued by the commissioner that authorizes a person to act as an insurance consultant.
- ~~(7) "Controlled business" means insurance procured or to be procured by or through a person upon the~~

~~life, person, property, or risks of the person or the person's spouse, employer, or business.~~

(8) "Individual" means a ~~private or natural person, as distinguished from a partnership, corporation, or association.~~

(9) "Insurance producer", except as provided in 33-17-103~~1~~:

~~—— (a) means:~~

~~—— (i) a person who solicits, negotiates, effects, procures, delivers, renews, continues, or binds:~~

~~—— (A) policies of insurance for risks residing, located, or to be performed in this state; or~~

~~—— (B) membership contracts as defined in 33-30-101;~~

~~—— (ii) a managing general agent. For purposes of this chapter, the term "managing general agent" has the same meaning as set forth in 33-2-1501.~~

~~—— (b) does not mean a customer service representative. For purposes of this definition, a "customer service representative" means a salaried employee of an insurance producer who assists and is responsible to the insurance producer~~ means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

(10) "Lapse" means the expiration of the license for failure to renew by the biennial renewal date.

~~(10)~~(11) "License" means a document issued by the commissioner that authorizes a person to act as an insurance producer for the ~~kinds of insurance~~ lines of authority specified in the document. The license itself does not create actual, apparent, or inherent authority in the holder to represent or commit an insurer to a binding agreement.

~~(11)~~(12) "Limited line credit insurance" includes credit life insurance, credit disability insurance, credit property insurance, credit unemployment insurance, involuntary unemployment insurance, mortgage life insurance, mortgage guaranty insurance, mortgage disability insurance, gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing the credit obligation and that the commissioner determines should be designated as a form of limited line credit insurance.

~~(12)~~(13) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

~~(13)~~(14) "Limited lines insurance" means those lines of insurance ~~defined in 33-1-211 through 33-1-219 or any other line of insurance~~ that the commissioner finds necessary to recognize for the purposes of complying with 33-17-401(3).

~~(14)~~(15) "Limited lines producer" means a person authorized by the commissioner to sell, solicit, or negotiate limited lines insurance.

~~(15)~~(16) "Lines of authority" means any kind of insurance as defined in Title 33.

(17) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract if the person engaged in negotiation either sells insurance or obtains insurance from insurers for purchasers.

~~(16)~~(18) "Person" means an individual, ~~partnership, corporation, association, or other legal entity~~ a business entity.

~~(17)~~(19) "Public adjuster" means an adjuster employed by and representing the interests of the insured.

(20) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

(21) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance.

(22) "Suspend" means to bar the use of a person's license for a period of time.

~~(18)~~(23) "Uniform application" means the national association of insurance commissioners' uniform application for resident and nonresident insurance producer licensing.

(24) "Uniform business entity application" means the national association of insurance commissioners uniform business entity application for resident and nonresident business entities."

Section 11. Section 33-17-103, MCA, is amended to read:

"33-17-103. Exemptions from definition of insurance producer. The definition of insurance producer contained in 33-17-102 does not include:

(1) ~~a person~~ an individual who is a regularly salaried officer or employee of an insurer and who is engaged in the performance of usual and customary executive, administrative, or clerical duties and whose duties do not include the negotiation, sale, or solicitation of insurance;

(2) ~~a person~~ an individual who is a salaried employee in the office of an insurance producer and who devotes ~~his~~ the individual's full time to clerical and administrative services, including the incidental taking of insurance applications and receipt of premiums in the office of ~~his~~ the individual's employer, if the ~~employee individual~~ does not receive any commissions on the applications and ~~his~~ the individual's compensation is not varied by the volume of applications or premiums ~~he~~ the individual takes or receives;

(3) a person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, or group or blanket accident and disability insurance or for the purpose of enrolling individuals under ~~such those~~ plans, issuing certificates under ~~such those~~ plans, or otherwise assisting in administering ~~such those~~ plans; if ~~no~~ a commission is not paid for the service;

(4) an employer, ~~his~~ the employer's officers; or employees, or the trustees of an employee trust plan, to the extent that the employer, officers, employees, or trustees are engaged in the administration ~~of~~ or operation of a program of employee benefits for their own employees or the employees of their subsidiaries or affiliates if the program involves the use of insurance issued by an insurer and the employer, officers, employees, or trustees are not compensated in any manner, directly or indirectly, by the insurer issuing the contracts; ~~or~~

(5) a person who is:

(a) an employee of an insurer or of an organization employed by an insurer, which insurer or organization is engaged in the inspection, rating, or classification of insurance risks or in the supervision of the training of insurance producers; and

(b) not individually engaged in the selling, solicitation, or negotiation of insurance policies and contracts;

(6) an attorney advising a client on general insurance matters, provided the attorney does not sell, solicit, or negotiate insurance; or

(7) a salaried full-time employee who counsels or advises the employer or the subsidiaries or affiliates of the employer about the life insurance or annuities if the employee does not sell or solicit insurance or receive a commission or fee;

(8) A PERSON WHOSE ACTIVITIES IN THIS STATE ARE LIMITED TO ADVERTISING WITHOUT THE INTENT TO SOLICIT INSURANCE IN THIS STATE THROUGH COMMUNICATIONS IN PRINTED PUBLICATIONS OR OTHER FORMS OF ELECTRONIC MASS MEDIA WHOSE DISTRIBUTION IS NOT LIMITED TO RESIDENTS OF THIS STATE IF THE PERSON DOES NOT SELL, SOLICIT, OR NEGOTIATE INSURANCE CONTRACTS WITH RESPECT TO RISKS LOCATED IN THIS STATE; OR

(9) A PERSON WHO IS NOT A RESIDENT OF THIS STATE WHO SELLS, SOLICITS, OR NEGOTIATES A CONTRACT OF INSURANCE FOR COMMERCIAL PROPERTY AND CASUALTY RISKS WITH RESPECT TO AN INSURED WITH RISKS LOCATED IN MORE THAN ONE STATE THAT ARE INSURED UNDER THE CONTRACT IF THE PERSON IS LICENSED IN THE STATE WHERE THE INSURED MAINTAINS ITS PRINCIPAL PLACE OF BUSINESS AND THE CONTRACT INSURES RISKS LOCATED IN THAT STATE."

Section 12. Section 33-17-201, MCA, is amended to read:

"33-17-201. License required of insurance producer -- forms -- background examinations. (1) ~~A~~ For subjects of insurance resident, located, or to be performed in this state, a A person may not in this state sell,

~~solicit, or negotiate insurance or act as or hold himself out to be an insurance producer IN THIS STATE for subjects of insurance located, residing, or to be performed in this state~~ unless licensed as an insurance producer under this chapter.

(2) The commissioner may prescribe by rule and make available the forms required in connection with application for, issuance, continuation, suspension, or termination of a license.

(3) All resident applicants shall undergo prelicensing background examinations. The applicant or insurer shall pay the cost of the background examinations.

~~(3) Unless licensed as a life insurance producer as required by this section, a person may not in this state solicit life insurance or annuities or procure applications for life insurance or annuities or engage or hold himself out as engaging in the business of analyzing or abstracting life insurance policies or annuities or of counseling or advising or giving opinions, other than as a licensed attorney, relative to insurance or annuities for fee, commission, or other compensation, other than as a salaried full-time employee counseling and advising his employer relative to the insurance interests of the employer and of the subsidiaries or business affiliates of the employer or with respect to the insurance interests of employees of the employer, subsidiaries, or affiliates under group insurance or similar insurance plans arranged by the employer or employers of the employees.~~

~~———— (4) A person licensed to sell coverage only for the all-risk federal crop insurance program shall receive a license restricted to that purpose.~~

~~———— (5) A representative of a fraternal benefit society who solicits and negotiates insurance contracts is an insurance producer and is subject to the same licensing requirements as those for an insurance producer, except that a license is not required of:~~

~~———— (a) an officer, employee, or secretary of a fraternal benefit society or of a subordinate lodge or branch of a fraternal benefit society who devotes substantially all of his time to activities other than the solicitation or negotiation of insurance contracts and who receives no commission or other compensation directly dependent upon the number or amount of insurance contracts solicited or negotiated; or~~

~~———— (b) a representative of a fraternal benefit society who devotes or intends to devote less than 50% of his time to the solicitation and procurement of insurance contracts for the fraternal benefit society. A person who in the preceding calendar year has solicited and procured life insurance with a face amount in excess of \$50,000 or, in the case of any other kind or kinds of insurance that the fraternal benefit society may write, on more than 25 individuals and who has received or will receive a commission or other compensation for the insurance is presumed to be devoting or intending to devote, 50% of his time to the solicitation or procurement of insurance contracts for the fraternal benefit society.~~

~~———(6) The commissioner may not grant or extend a license to a person if the license is being or will be used to write controlled business. The commissioner shall consider a license to have been, or intended to be, used for the purpose of writing controlled business if, during any 12-month period, the aggregate amount of premiums on controlled business would exceed the aggregate amount of premiums on all other insurance business of the applicant or licensee."~~

Section 13. Section 33-17-211, MCA, is amended to read:

"33-17-211. General qualifications -- application for license. (1) An individual applying for a license shall apply on a form specified by the commissioner and declare under penalty of refusal, suspension, or revocation of the license that statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall verify that the individual:

- (a) is 18 years of age or older;
- (b) has not committed an act that is a ground for refusal, suspension, or revocation as set forth in 33-17-1001;
- (c) has paid the license fees stated in 33-2-708;
- (d) has successfully passed the examinations for each kind of insurance for which the individual has applied within 12 months of application;
- (e) is a resident of this state or of another state that grants similar privileges to residents of this state. Licenses issued based upon Montana state residency terminate if the licensee relocates to another state.
- (f) is competent, trustworthy, and of good reputation;
- (g) has experience or training or otherwise is qualified in the kind or kinds of insurance for which the applicant applies to be licensed and is reasonably familiar with the provisions of this code that govern the applicant's operations as an insurance producer; ~~and~~
- (h) if applying for a license as to life or disability insurance:
 - (i) is not a funeral director, undertaker, or mortician operating in this or any other state;
 - (ii) is not an officer, employee, or representative of a funeral director, undertaker, or mortician operating in this or any other state; or
 - (iii) does not hold an interest in or benefit from a business of a funeral director, undertaker, or mortician operating in this or any other state; and
 - (i) has completed a background examination pursuant to [section 2].

(2) A resident or nonresident business entity acting as an insurance producer is required to obtain an insurance producer's license. Application must be made using the uniform business entity application. In order to approve the application, the commissioner shall verify that:

(a) the business entity has paid the appropriate fee; and

(b) the business entity has designated an individual licensed insurance producer who is responsible for the business entity's compliance with the insurance laws of this state.

~~(2)~~(3) A person acting as an insurance producer shall obtain a license. A person shall apply for a license on a form specified by the commissioner. Before approving the application, the commissioner shall verify that:

(a) the person meets the requirements listed in subsection (1);

(b) the person has paid the licensing fees stated in 33-2-708 for each individual licensed in conjunction with the person's license. A licensed person shall promptly notify the commissioner of each change relating to an individual listed in the license.

(c) the person has designated a licensed officer responsible for compliance by the person with the insurance laws and rules of this state;

(d) each member and employee of a partnership and each officer, director, stockholder, or employee of a corporation who is acting as an insurance producer in this state has obtained a license;

(e) (i) if the person is a partnership or corporation, the transaction of insurance business is within the purposes stated in the partnership agreement or the articles of incorporation; and

(ii) if the person is a corporation, the secretary of state has issued a certificate of existence or authority under 35-1-1312 or filed articles of incorporation under 35-1-220.

~~(3)~~(4) The commissioner may license as a resident insurance producer an association of licensed Montana insurance producers, whether or not incorporated, formed and existing substantially for purposes other than insurance. The license must be used solely for the purpose of enabling the association to place, as a resident insurance producer, insurance of the properties, interests, and risks of the state of Montana and of other public agencies, bodies, and institutions and to receive the customary commission for the placement. The president and secretary of the association shall apply for the license in the name of the association, and the commissioner shall issue the license to the association in its name alone. The fee for the license is the same as that required by 33-2-708(1)(a). The commissioner may, after a hearing with notice to the association, revoke the license if the commissioner finds that continuation of the license is not in the public interest or that a ground listed in 33-17-1001 exists.

~~(4)~~(5) An insurance producer using an assumed business name shall register the name with the

commissioner before using it."

Section 14. Section 33-17-212, MCA, is amended to read:

"33-17-212. Examination required -- exceptions -- fees. (1) Except as provided in subsection (6), an individual applying for a license is required to pass a written examination. The examination must test the knowledge of the individual concerning each kind of insurance listed in subsection (5) for which application is made, the duties and responsibilities of an insurance producer, and the insurance laws and rules of this state. The examination must be developed and conducted under rules adopted by the commissioner.

(2) The commissioner may conduct the examination or make arrangements, including contracting with an outside testing service, for administering the examination. The commissioner may arrange for the testing service to recover the cost of the examination from the applicant.

(3) An individual who fails to appear for the examination as scheduled or fails to pass the examination may reapply for an examination and shall remit all forms before being rescheduled for another examination.

(4) If the applicant is a partnership or corporation, each individual who is to be named in the license as having authority to act for the applicant in its insurance transactions under the license shall meet the qualifications as provided in this section.

(5) Examination of an applicant for a license must cover all of the kinds of insurance for which the applicant has applied to be licensed, as constituted by any one or more of the following classifications:

- (a) life insurance;
- (b) disability insurance;
- (c) property insurance. For the purposes of this provision, property insurance includes marine insurance.
- (d) casualty insurance;
- (e) surety insurance;
- (f) ~~credit life and disability~~ limited lines credit insurance;
- (g) title insurance.

(6) This section does not apply to and an examination is not required of:

(a) an individual lawfully licensed as an insurance producer as to the kind or kinds of insurance to be transacted as of or immediately prior to January 1, 1961, and who continues to be licensed;

(b) an applicant for a license covering the same kind or kinds of insurance as to which the applicant was licensed in this state, other than under a temporary license, within the 12 months immediately preceding the date of application unless the commissioner has suspended, revoked, or ~~refused to continue~~ terminated the previous

license, except that this subsection (6)(b) does not apply to a title insurance producer, as defined in 33-25-105;

(c) an applicant for a license as a nonresident insurance producer;

~~(d) an applicant for a license to sell all-risk federal crop insurance if the applicant provides certification from an appropriate governmental agency to the commissioner that the applicant is qualified to sell the insurance;~~

~~—— (e)(d) transportation ticket agents of common carriers applying for a license to solicit and sell only:~~

(i) accident insurance ticket policies; or

(ii) insurance of personal effects while being carried as baggage on a common carrier, as incidental to their duties as transportation ticket agents;

~~(f)(e)~~ an association applying for a license under 33-17-211;

~~(g) a mechanical breakdown insurance producer;~~

~~—— (h) a prepaid legal plans producer;~~

~~—— (i) a gap insurance producer;~~

~~—— (j) involuntary unemployment insurance producer;~~

~~—— (k) a credit property insurance, credit unemployment insurance, or mortgage guaranty insurance producer; or~~

~~(f)(f)~~ an individual who, within ~~60~~ 90 days of cancellation of a license issued by the state of the individual's residence, files with the commissioner a current letter of clearance certifying that the individual has passed an examination and held an insurance license in good standing in the individual's state of licensure, except that the individual shall take an examination pertaining to this state's law and each kind of insurance for which the individual has applied for a license and that is not covered under the license held in the other state.

(7) (a) Subject to the provisions of subsection (7)(b), an individual who applies for a nonresident insurance producer license in this state and who was previously licensed for the same lines of authority in another state may not be required to complete any prelicensing education or examination.

(b) The exemption in subsection (7)(a) is available only if the individual is currently licensed in the other state or the individual's application is received within 90 days of the cancellation of the individual's previous license and if the other state issues a certification that, at the time of the cancellation, the individual was in good standing in that state or the state's database records, maintained by the national association of insurance commissioners or any of the association's affiliates or subsidiaries that the association oversees, indicate that the insurance producer is or was licensed in good standing for the lines of authority requested."

Section 15. Section 33-17-214, MCA, is amended to read:

"33-17-214. Issuance of license -- insurance producer lines of authority -- license data -- lapse of license -- change of address. (1) A person who has met the requirements of 33-17-211 and 33-17-212 must be issued a license, unless that person has been denied a license pursuant to 33-17-1001.

(2) An insurance producer may receive a license qualifying the insurance producer in one or more of the following lines of authority:

(a) life insurance coverage on human lives, including benefits of endowment and annuities, and the coverage may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(b) accident and health or sickness insurance coverage providing for sickness, bodily injury, or accidental death, and the coverage may provide benefits for disability income;

(c) property insurance coverage for the direct or consequential loss or damage to property of every kind;

(d) casualty insurance coverage against legal liability, including liability for death, injury, or disability or damage to real or personal property;

(e) variable life and variable annuity products insurance coverage provided under variable life insurance contracts and variable annuities;

(f) personal lines of property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;

(g) limited line credit insurance; or

(h) any other line of insurance permitted under Title 33.

(3) The license must state the name and address of the licensee, personal identification number, date of issuance, general conditions relative to expiration or termination, kind of insurance covered, and other information that the commissioner considers necessary.

(4) The license of a partnership, corporation, or association must also state the name of each individual authorized to exercise the license powers.

(5) Each license remains in effect, unless it is suspended, or revoked, or terminated or the license lapses.

(6) A person shall inform the commissioner in writing of a change of address within 30 days of the change."

Section 16. Section 33-17-301, MCA, is amended to read:

"33-17-301. Adjuster license -- qualifications -- catastrophe adjustments -- public adjuster. (1) A

~~person~~ An individual may not act as or purport to be an adjuster in this state unless licensed as an adjuster under this chapter. ~~A person~~ An individual shall apply for an adjuster license to the commissioner according to forms that the commissioner prescribes and furnishes. The commissioner shall issue the adjuster license to individuals qualified to be licensed as an adjuster.

(2) To be licensed as an adjuster, the applicant:

(a) must be an individual 18 years of age or more;

(b) must be a resident of Montana or resident of another state that will permit residents of Montana regularly to act as adjusters in the other state;

~~(c) must be a full-time salaried employee of a licensed adjuster or a graduate of a recognized law school or have had experience or special education or training as to the handling of loss claims under insurance contracts of sufficient duration and extent reasonably to make the applicant competent to fulfill the responsibilities of an adjuster~~ shall pass an adjuster licensing examination as prescribed by the commissioner and pay the fee pursuant to 33-2-708;

(d) must be trustworthy and of good character and reputation; and

(e) must have and shall maintain in this state an office accessible to the public and shall keep in the office for not less than 5 years the usual and customary records pertaining to transactions under the license. This provision does not prohibit maintenance of the office in the home of the licensee.

(3) A partnership or corporation, whether or not organized under the laws of this state, may be licensed as an adjuster if each individual who is to exercise the adjuster license powers is separately licensed or is named in the partnership or corporation adjuster license and is qualified for an individual adjuster license.

(4) An adjuster license or qualifications are not required for an adjuster who is sent into this state by and on behalf of an insurer or adjusting partnership or corporation for the purpose of investigating or making adjustments of a particular loss under an insurance policy or for the adjustment of a series of losses resulting from a catastrophe common to all losses.

(5) An adjuster license continues in force until ~~expired~~ lapsed, suspended, revoked, or terminated. ~~The license is subject to renewal upon written request to the commissioner~~ The licensee shall renew the license by the biennial renewal date and pay the appropriate fee or the license will lapse. The biennial fee is established pursuant to 33-2-708.

(6) The commissioner may adopt rules providing for the examination, licensure, bonding, and regulation of public adjusters."

Section 17. Section 33-17-502, MCA, is amended to read:

"33-17-502. Prohibition on holding out as consultant -- receiving fee. (1) A person not licensed as an insurance consultant in this state who identifies or represents to the public that the person is an insurance consultant without having been licensed as an insurance consultant under this part or a person who uses any other designation or title that is likely to mislead the public and represents to the public that the person has particular insurance qualifications other than those for which the person may be otherwise licensed or otherwise qualified ~~is guilty of a misdemeanor and upon conviction shall be fined \$1,500~~ may be fined pursuant to 33-1-317.

(2) A person not licensed as an insurance consultant with respect to the relevant kinds of insurance who receives a fee for examining, appraising, reviewing, or evaluating any insurance policy, annuity or pension contract, plan, or program or who makes recommendations or gives advice with regard to any insurance policy, annuity or pension contract, plan, or program without first having been licensed by the commissioner as an insurance consultant ~~is guilty of a misdemeanor and upon conviction shall be fined \$1,500~~ may be fined pursuant to 33-1-317.

(3) This part does not apply to:

- (a) licensed attorneys at law in this state acting in their professional capacity; or
- (b) an actuary or a certified public accountant who provides information, recommendations, advice, or services in a professional capacity if neither the actuary nor the certified public accountant or the actuary's or certified public accountant's employer receives any compensation directly or indirectly on account of any insurance, bond, annuity or pension contract that results in whole or part from that information, recommendation, advice, or services."

Section 18. Section 33-17-503, MCA, is amended to read:

"33-17-503. Application -- fee -- expiration. (1) Before a consultant license is issued or renewed, the prospective licensee shall:

- (a) properly file in the office of the commissioner a written application on forms the commissioner prescribes; and
- (b) pay a fee of \$50, ~~which the commissioner shall deposit with the state treasurer to be credited to the state's general fund pursuant to 33-2-708.~~

(2) ~~Each consultant license must be renewed each year by the consultant paying a continuation fee on or before May 31, and the license continues in force unless suspended, revoked, or otherwise terminated. A consultant license continues in force until lapsed, suspended, revoked, or terminated."~~

Section 19. Section 33-17-504, MCA, is amended to read:

"33-17-504. Issuing license -- limitations. The commissioner may issue a consultant license to an individual who has complied with the requirements of this chapter with respect to either life insurance, meaning all of those kinds of insurance authorized in 33-1-207, 33-1-208, 33-20-1001, 33-21-103, 33-22-501, and 33-22-601, or general insurance, meaning all of those kinds of insurance authorized in 33-1-206, 33-1-207, 33-1-209 through 33-1-212, 33-1-214 through 33-1-219, and 33-1-221 through 33-1-229, as specified in the license."

Section 20. Section 33-17-1001, MCA, is amended to read:

"33-17-1001. Suspension, revocation, or refusal of license. (1) The commissioner may suspend, revoke, refuse to renew, or refuse to issue an insurance producer's license, adjuster license, or consultant license, or may levy a civil penalty in accordance with 33-1-317, or may choose any combination of actions; when an insurance producer, adjuster, consultant, or applicant for ~~an insurance producer's license~~ those licenses has:

(a) engaged or is about to engage in an act or practice for which issuance of the license could have been refused;

(b) obtained or attempted to obtain a license through misrepresentation or fraud, including but not limited to providing incorrect, misleading, incomplete, or materially untrue information in the license application or in the continuing education affidavit;

(c) violated or failed to comply with a provision of this code or has violated a rule, subpoena, or order of the commissioner or of the commissioner of any other state;

(d) improperly withheld, misappropriated, or converted to the licensee's or applicant's own use money or property belonging to policyholders, insurers, beneficiaries, or others and received in conduct of business under the license;

(e) been convicted of a felony;

(f) in the conduct of the affairs under the license, used fraudulent, coercive, or dishonest practices or the licensee or applicant is incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the public;

~~(g) made a materially untrue statement in the license application or in the continuing education affidavit;~~

~~———(h)(g) misrepresented the terms of an actual or proposed insurance contract or application for insurance;~~

~~(i)(h)~~ been found guilty of an unfair trade practice or fraud prohibited by Title 33, chapter 18;

~~(j)(i)~~ had a similar license suspended or revoked in any other state;

~~(k)(j)~~ forged another's name to an application for insurance or to any document related to an insurance transaction;

~~(h)(k)~~ cheated on an examination for a license; or

~~(m)(l)~~ knowingly accepted insurance business from a person who is not licensed.

(2) The license of a partnership or corporation may be suspended, revoked, refused, or denied if a reason listed in subsection (1) applies to an individual designated in the license to exercise its powers.

~~(3) The commissioner may suspend, revoke, or refuse to continue a license under subsection (1)(e) without conducting an investigation pursuant to 37-1-203 or making a written finding pursuant to 37-1-204. The commissioner retains the authority to enforce the provisions of and impose any penalty or remedy authorized by the insurance code against any person who is under investigation for or charged with a violation of the insurance code even if the person's license or registration has been surrendered or has lapsed."~~

Section 21. Section 33-17-1002, MCA, is amended to read:

"33-17-1002. Procedure following suspension or revocation. (1) Upon suspension, ~~or revocation,~~ or refusal of a license, the commissioner shall ~~immediately~~ notify the licensee ~~of the suspension or revocation either in person or~~ or applicant by mail addressed to the licensee or applicant at ~~his~~ the last-known address ~~last of record with~~ contained in the records of the commissioner. Notice ~~by mail~~ is effectuated when ~~the notice is~~ mailed.

~~(2)~~ The commissioner may reissue a license that has lapsed if the insurance producer has paid the lapsed license reinstatement fee pursuant to 33-2-708 and has filed certification of completion of continuing education requirements for the preceding biennium within 1 year of the lapse occurring.

~~(2)(3)~~ The commissioner may not again issue a license under this code to a person whose license has been revoked until after expiration of 1 year and ~~thereafter not~~ until the person again qualifies for a license in accordance with this code. If the commissioner revokes a person's license, the commissioner may refuse to issue a license to the person for up to 5 years after the revocation. A person whose license has been revoked twice is not again eligible for any license under this code.

~~(3)(4)~~ If the license of a partnership or corporation is suspended or revoked, ~~no~~ a member of the partnership or officer or director of the corporation may not be licensed or be designated in a license to exercise its powers during the period of the suspension or revocation unless the commissioner determines upon substantial evidence that the member, officer, or director was not personally at fault and did not acquiesce in the matter on account of which the license was suspended or revoked."

Section 22. Section 33-17-1203, MCA, is amended to read:

"33-17-1203. Continuing education -- basic requirements -- exceptions. (1) Unless exempt under subsection (4):

(a) a person licensed to act as an insurance producer ~~for property, casualty, surety, or title insurance~~ or as a consultant ~~for general insurance~~ other than a person licensed for limited lines credit insurance shall, during each ~~calendar year~~ 24-month period, complete at least ~~10~~ 24 credit hours of approved continuing education;

~~(b) a person licensed to act as an insurance producer for life or disability insurance or as a consultant for life insurance shall, during each calendar year, complete at least 10 credit hours of approved continuing education;~~

~~—— (c) a person holding multiple licenses shall, during each calendar year, complete at least 15 credit hours of approved continuing education;~~

~~(d)(b)~~ a person licensed to act as an insurance producer only for limited lines credit ~~life and disability~~ insurance shall, during each ~~calendar year~~ biennium, complete ~~2-1/2~~ 5 credit hours of approved continuing education in the areas of insurance law, ethics, or ~~credit life and disability~~ limited lines credit insurance;

~~(e)(c)~~ a person licensed as an insurance producer or consultant shall, during each biennium, complete at least 1 credit hour of approved continuing education on changes in Montana insurance statutes and administrative rules.

(2) If a person licensed as an insurance producer or consultant completes more credit hours of approved continuing education in a ~~year~~ biennium than the minimum required in subsection (1), the excess credit hours may be carried forward and applied to the continuing education requirements of the next ~~year~~ biennium.

(3) The commissioner may, for good cause, grant an extension of time, not to exceed 1 year, during which the requirements imposed by subsection (1) may be completed.

(4) The minimum continuing education requirements do not apply to:

~~(a) a person licensed to sell any kind of insurance for which an examination is not required under 33-17-212(6)(d) through (6)(l);~~

~~—— (b)(a)~~ a person holding a temporary license issued under 33-17-216; or

~~(c) a newly licensed insurance producer or consultant during the calendar year in which the licensee first received a license;~~

~~—— (d) a person who only executes surety bail bonds; or~~

~~—— (e)(b)~~ an insurance producer or consultant otherwise exempted by the commissioner."

Section 23. Section 33-17-1205, MCA, is amended to read:

"33-17-1205. Compliance -- failure to comply -- rulemaking authority. (1) Each person subject to the requirements of 33-17-1203 shall file ~~annually on a form~~ biennially in a format supplied by the commissioner ~~written~~ certification as to the approved courses, lectures, seminars, and instructional programs successfully completed by that person during the preceding ~~calendar year~~ biennium.

(2) ~~The commissioner may suspend the license of any person failing to comply with subsection (1) who has not been granted an extension under 33-17-1203 and may impose a late renewal fee of \$20, which is the same amount previously determined by an administrative rule in effect on November 3, 1998. The suspension must remain in effect until the time that the person demonstrates to the satisfaction of the commissioner that the person has complied with all the provisions of this part. If the license of an insurance producer or consultant is suspended by reason of this section for a period exceeding 12 months, the license must be terminated upon notice to the insurance producer or consultant. If a person fails to comply with this section, the person's license lapses.~~

(3) In the continuing education affidavit, an insurance producer shall report to the commissioner the final disposition of any administrative action or the final disposition of any criminal action taken against the insurance producer in another jurisdiction or by another governmental agency in this state. As used in this subsection, "final disposition of any criminal action" means a plea agreement or sentence and judgment.

~~(3)~~(4) Each person providing approved courses, lectures, seminars, and instructional programs, including insurance company education programs, shall file annually with the commissioner an alphabetical list of the names and addresses of all persons who have successfully completed an approved continuing education activity during the preceding calendar year.

~~(4)~~(5) The commissioner may, following the process provided for in 33-1-314, withdraw approval of all courses, lectures, seminars, and instructional programs of any person that fails to comply with subsection ~~(3)~~ (4). The commissioner may, after having conducted a hearing pursuant to 33-1-701, impose a fine upon a person that has failed to comply with subsection ~~(3)~~ (4). The fine may not exceed the penalty permitted by 33-1-317.

(6) The commissioner may adopt rules establishing the requirements for biennial filing and reporting of continuing education credits."

Section 24. Section 33-17-1207, MCA, is amended to read:

"33-17-1207. Funding for continuing education program. All ~~annual~~ continuing education filing fees collected by the commissioner and fees paid to the commissioner for the review of initial applications for approval

of continuing education courses or the periodic review of these courses must be turned over promptly to the state treasurer who shall place the money in the state special revenue fund to the credit of the state auditor's office to be used for the continuing education program. The funds allocated by this section to the state special revenue fund may be used only to defray the expenses of the state auditor's office in discharging its duties as prescribed by this part, subject to the applicable laws relating to the appropriation of state funds and to the deposit and expenditure of state money. The state auditor is responsible for the proper expenditure of this money as provided by law."

NEW SECTION. Section 25. Coordination instruction. If ____ Bill No. ____ [LC 797] and [this act] are passed and approved, then [section 8 7] of this act, amending 33-2-708, is amended to read:

"Section 8 7. Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) (a) Except as provided in 33-17-212(2), the commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, ~~100.00~~ \$100;

(B) ~~annual~~ biennial renewal of license ~~10.00~~ \$50;

(C) lapsed license reinstatement fee, \$100;

(ii) resident insurance producer's license lapsed license reinstatement fee, \$100;

~~(ii)~~ (iii) surplus lines insurance ~~producer~~ producer's license:

(A) application for original license and for issuance of license, if issued, ~~50.00~~ \$50;

(B) ~~annual~~ biennial renewal of license ~~50.00~~ \$100;

(C) lapsed license reinstatement fee, \$200;

(iv) insurance adjuster's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(v) insurance consultant's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(vi) resident and nonresident rental car entity producer's license:

(A) application for original license, including issuance of license, if issued, \$100;

(B) quarterly filing fee, \$25;

(iii)(vii) 50 cents for each page for copies of documents on file in the commissioner's office.

(c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.

(2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization submitting courses or programs for review in any biennium.

(b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).

(3) The commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, and 33-28-201. All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.

(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded.""

NEW SECTION. Section 26. Codification instruction. (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 33, chapter 17, and the provisions of Title 33, chapter 17, apply to [sections 1 and 2].

(2) [Section 3] is intended to be codified as an integral part of Title 33, chapter 1, part 2, and the provisions of Title 33, chapter 1, part 2, apply to [section 3].

(3) [Section 4] is intended to be codified as an integral part of Title 33, chapter 26, and the provisions of Title 33, chapter 26, apply to [section 4].

(4) [Section 5] is intended to be codified as an integral part of Title 33, chapter 17, part 4, and the provisions of Title 33, chapter 17, part 4, apply to [section 5].

NEW SECTION. Section 27. Effective date -- applicability. ~~[This act]~~ (1) EXCEPT AS PROVIDED IN

SUBSECTION (2), [THIS ACT] is effective July 1, 2003, and applies to licenses issued or renewed on or after July 1, 2003.

(2) [SECTION 2] APPLIES TO LICENSE APPLICATIONS POSTMARKED ON OR AFTER JULY 1, 2004.

- END -

HOUSE BILL NO. 169
INTRODUCED BY KEANE
BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS OF LICENSING FOR INSURANCE PRODUCERS, ADJUSTERS, AND CONSULTANTS; PROVIDING FOR INACTIVE STATUS FOR INSURANCE PRODUCERS SERVING IN THE ARMED FORCES; REQUIRING AN INSURANCE PRODUCER LICENSING BACKGROUND EXAMINATION AND PROVIDING EXAMINATION CRITERIA; DEFINING "CAR RENTAL INSURANCE"; REVISING THE PAYMENT OF FEES FOR LICENSES AND RENEWAL OF LICENSES RELATING TO INSURANCE; REVISING THE STATUS OF NONRESIDENT INSURANCE PRODUCERS; PROVIDING FOR BIENNIAL RENEWAL OF LICENSES AND PAYMENT OF BIENNIAL LICENSE FEES FOR CERTAIN PRODUCERS; SIMPLIFYING THE INSURANCE CONTINUING EDUCATION REQUIREMENTS; AMENDING SECTIONS ~~33-1-244~~, 33-2-305, 33-2-708, 33-7-525, 33-7-532, 33-17-102, 33-17-103, 33-17-201, 33-17-211, 33-17-212, 33-17-214, 33-17-301, 33-17-502, 33-17-503, 33-17-504, 33-17-1001, 33-17-1002, 33-17-1203, 33-17-1205, AND 33-17-1207, MCA; AND PROVIDING AN EFFECTIVE DATE AND ~~AN~~ APPLICABILITY ~~DATE~~ DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Inactive status -- insurance producers serving in armed forces.** (1) The commissioner may place an insurance producer on inactive status if the insurance producer enters active service in the armed forces of the United States.

(2) An insurance producer may not transact the business of insurance while on inactive status.

(3) The commissioner shall waive the continuing education requirements in 33-17-1205 and the fee in 33-2-708 while an insurance producer is on inactive status.

(4) In order to be placed on inactive status, an insurance producer shall notify the commissioner when called to active service.

(5) In order to be taken off inactive status, an insurance producer shall notify the commissioner when discharged from active service.

NEW SECTION. **Section 2. Licensing background examination -- entity registry criteria.** (1) (a)

Each applicant shall obtain ~~at the applicant's own cost~~ a complete background examination. THE APPLICANT OR INSURER SHALL PAY THE COST OF THE BACKGROUND APPLICATION EXAMINATION. The background examination report must provide information to confirm:

- (i) the applicant's:
 - (A) identity;
 - (B) current address;
 - (C) professional license certification; and
 - (D) military service; and
- (ii) (A) existing or ongoing criminal investigations and court records relating to the applicant; and
- (B) regulatory agencies' disciplinary actions concerning the applicant.
- (b) The background examination is confidential and may not be held as part of the licensee's public file.
- (2) An entity may not conduct licensing background examinations unless the entity maintains a current

filing with the commissioner. The filing must:

- (a) contain a description of the criteria, standards, and procedures used in conducting the background examination;
- (b) ensure that the examination will be based on nationally recognized criteria, standards, and procedures; and
- (c) ensure confidentiality of the applicant's information.
- (3) The commissioner may adopt rules to further implement this section, including but not limited to rules on the length of time that a background examination is valid and rules for the electronic filing of fingerprints.

NEW SECTION. **Section 3. Rental car insurance.** Rental car insurance is insurance that:

- (1) provides coverage for periods of less than 90 days;
- (2) applies only to the rental car subject to the rental agreement; and
- (3) is limited to the following kinds of insurance:
 - (a) personal accident insurance for renters and other rental car occupants, for accidental death or dismemberment, and for medical expenses resulting from an accident that occurs with the rental car during the rental period;
 - (b) liability insurance that provides protection to the renters and other authorized drivers of a rental car for liability arising from the operation or use of the rental car during the rental period;
 - (c) personal effects insurance that provides coverage to renters and other vehicle occupants for loss of

or damage to personal effects in the rental car during the rental period; or

(d) motor club services, as defined in 61-12-301.

NEW SECTION. **Section 4. Rulemaking authority for surety insurers.** The commissioner may adopt rules regarding surety insurers who sell, solicit, or negotiate commercial bail bonds. The rules must include but are not limited to rules regarding the receipt of collateral, the description of collateral received, the penalty for failure to return collateral, and an annual list of forfeitures of bonds.

NEW SECTION. **Section 5. Status of nonresident insurance producers -- biennial renewal of license -- payment of fees.** A nonresident insurance producer's license continues in force until lapsed, suspended, revoked, or terminated. The license lapses if the licensee fails to remit a biennial renewal fee.

~~Section 6. Section 33-1-211, MCA, is amended to read:~~

~~"33-1-211. Surety insurance. Surety insurance includes:~~

~~(1) fidelity insurance which is insurance guaranteeing the fidelity of persons holding positions of public or private trust; that:~~

~~(a) guarantees the honesty or faithful performance of persons who hold positions of public or private trust;~~

~~(b) indemnifies against loss resulting from forgery or alteration of documents; or~~

~~(c) indemnifies banks, stockbrokers, insurance companies, and other financial institutions against:~~

~~(i) loss of money, securities, and other tangible property, while on the premises of the insured or in transit, through theft, deceptive practices, destruction, or disappearance;~~

~~(ii) loss of or damage to the insured's premises or furniture, fixtures, and equipment resulting from actual or attempted burglary, robbery, arson, or malicious mischief; or~~

~~(iii) liability for loss of or damage to customers' property while secured in safe deposit boxes;~~

~~(2) insurance guaranteeing the performance of contracts, other than insurance policies, and guaranteeing and executing bonds, undertakings, and contracts of suretyship insurance that covers obligations to pay the debt or be responsible for the default of another when there is a legal relationship based upon a written contract in which one person undertakes to answer to another for the debt or default of a third person resulting from the third person's failure to pay or perform as required by an underlying contract, permit, law, or rule;~~

~~(3) insurance indemnifying banks, bankers, brokers, or financial or moneyed corporations or~~

~~associations:~~

~~—— (a) against check forgery or alteration or against loss resulting from any cause of bills of exchange, notes, bonds, securities, evidences of debt, deeds, mortgages, warehouse receipts, or other valuable papers, documents, money, precious metals and articles made therefrom, jewelry, watches, necklaces, bracelets, gems, or precious and semiprecious stones, including any loss while being transported in armored motor vehicles, by mail, or by messenger but not including any other risks of transportation or navigation;~~

~~—— (b) against loss or damage to the insured's premises or to his furnishings, fixtures, equipment, safes, and vaults therein caused by burglary, robbery, theft, or criminal mischief or any attempt thereat commercial bail bonds issued to ensure the presence of a criminal defendant at a court proceeding pursuant to 46-9-403(4).~~"

Section 6. Section 33-2-305, MCA, is amended to read:

"33-2-305. Licensing of surplus lines insurance producer -- fee and bond. (1) A person may not place a contract of surplus lines insurance with an unauthorized insurer unless the person is licensed as a property and casualty insurance producer and possesses a current surplus lines insurance license issued by the commissioner.

(2) The commissioner shall issue a surplus lines insurance producer's license to any qualified holder of a current property and casualty insurance producer license only if the insurance producer has:

(a) remitted to the commissioner the annual fee prescribed by 33-2-708;

(b) submitted to the commissioner a completed license application on a form supplied by the commissioner; and

(c) been licensed as a property and casualty insurance producer continuously for 5 years or more; ~~and~~

~~—— (d) filed with the commissioner and, for as long as the license remains in effect, kept in force a bond in favor of the state of Montana in the amount of \$10,000, with authorized corporate sureties approved by the commissioner. The bond must be conditioned that the insurance producer will conduct business under the license in accordance with the provisions of The Surplus Lines Insurance Law and that the insurance producer will promptly remit the taxes provided in 33-2-311. The bond may not be terminated unless the surety gives the surplus lines insurance producer, the producing insurance producer, and the commissioner at least 30 days' prior written notice of termination.~~

(3) ~~The license expires on April 1 after its date of issue. A surplus lines insurance producer shall renew the license on or before March 1 of each year upon payment of the annual renewal fee prescribed in 33-2-708. A surplus lines insurance producer who fails to apply for a renewal of the license on or before March 1 shall pay~~

~~a fine of \$100 before the commissioner renews the license~~ licensee shall renew the license on a form prescribed by the commissioner. The commissioner may establish rules for biennial renewal of the license. A license lapses if not renewed.

(4) A corporation is eligible to be licensed as a surplus lines insurance producer if:

(a) the corporate license lists the individuals within the corporation who have satisfied the requirements of this part to become surplus lines insurance producers; and

(b) only those individuals listed on the corporate license transact surplus lines insurance.

(5) This section may not be construed to require agents, producers, or brokers acting as intermediaries between a surplus lines insurance producer and an unauthorized insurer under this part to hold a valid Montana surplus lines insurance producer's license."

Section 7. Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) (a) Except as provided in 33-17-212(2), the commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, ~~100.00~~ \$100;

(B) ~~annual~~ biennial renewal of license, ~~10.00~~ \$50;

(C) lapsed license reinstatement fee, \$100;

~~(ii) resident insurance producer's license~~ lapsed license reinstatement fee, \$100 \$50;

~~(iii)~~ (iii) surplus lines insurance ~~producer~~ producer's license:

(A) application for original license and for issuance of license, if issued, ~~50.00~~ \$50;

(B) ~~annual~~ biennial renewal of license, ~~50.00~~ \$100;

(C) lapsed license reinstatement fee, \$200;

(iv) insurance adjuster's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(v) insurance consultant's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(iii)(vi) 50 cents for each page for copies of documents on file in the commissioner's office.

(c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.

(2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization submitting courses or programs for review in any biennium.

(b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).

(3) The commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, and 33-28-201. All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.

(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded."

Section 8. Section 33-7-525, MCA, is amended to read:

"33-7-525. Insurance producer defined -- fraternal benefit society insurance contracts. (1) The term "insurance producer", as used in this chapter, means any authorized or acknowledged insurance producer of a society who acts as ~~such an insurance producer~~ in the solicitation, negotiation, or ~~procurement or making sale~~ of a life insurance, accident and health insurance, or annuity contract.

(2) The term "~~insurance producer~~" does not include any regular salaried officer or employee of a licensed society who devotes substantially all of ~~his~~ the officer's or employee's services to activities other than the solicitation of fraternal insurance contracts from the public and who receives for the solicitation of ~~such~~ the contracts no commission or other compensation directly dependent upon the amount of business obtained."

Section 9. Section 33-7-532, MCA, is amended to read:

"33-7-532. Producer Insurance producer licensing -- fraternal benefit society. (1) A society's insurance producer ~~must be~~ is considered to be an insurance producer and is subject to the same licensing

requirements as insurance producers under Title 33, chapter 17, ~~except that an examination is not required of an individual who is licensed in this state as an insurance producer for a society as to the kind of insurance to be transacted on or before October 1, 1981, and who continues to be licensed as an insurance producer.~~

(2) A society doing business in this state may not pay to a person who is not a licensed insurance producer of the society any commission or other compensation for any services in obtaining in this state any new contract of life, accident, or health insurance or any new annuity contract."

Section 10. Section 33-17-102, MCA, is amended to read:

"33-17-102. Definitions. As used in this title, the following definitions apply:

(1) (a) "Adjuster" means a person who, on behalf of the insurer, for compensation as an independent contractor or as the employee of an independent contractor or for a fee or commission investigates and negotiates the settlement of claims arising under insurance contracts or otherwise acts on behalf of the insurer.

(b) The term does not include a:

~~(a)~~(i) licensed attorney who is qualified to practice law in this state;

~~(b)~~(ii) salaried employee of an insurer or of a managing general agent;

~~(c)~~(iii) licensed insurance producer who adjusts or assists in adjustment of losses arising under policies issued by the insurer; or

~~(d)~~(iv) licensed third-party administrator who adjusts or assists in adjustment of losses arising under policies issued by the insurer.

(2) "Adjuster license" means a document issued by the commissioner that authorizes a person to act as an adjuster.

(3) (a) "Administrator" means a person who collects charges or premiums from residents of this state in connection with life, disability, property, or casualty insurance or annuities or who adjusts or settles claims on these coverages.

(b) The term does not ~~mean~~ include:

(i) an employer on behalf of its employees or on behalf of the employees of one or more subsidiaries of affiliated corporations of the employer;

(ii) a union on behalf of its members;

(iii) (A) an insurer that is either authorized in this state or acting as an insurer with respect to a policy lawfully issued and delivered by it in and pursuant to the laws of a state in which the insurer is authorized to transact insurance; or

- (B) a health service corporation as defined in 33-30-101;
 - (iv) a life, disability, property, or casualty insurance producer who is licensed in this state and whose activities are limited exclusively to the sale of insurance;
 - (v) a creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;
 - (vi) a trust established in conformity with 29 U.S.C. 186 or the trustees, agents, and employees of the trust;
 - (vii) a trust exempt from taxation under section 501(a) of the Internal Revenue Code or the trustees and employees of the trust;
 - (viii) a custodian acting pursuant to a custodian account that meets the requirements of section 401(f) of the Internal Revenue Code or the agents and employees of the custodian;
 - (ix) a bank, credit union, or other financial institution that is subject to supervision or examination by federal or state banking authorities;
 - (x) a company that issues credit cards and that advances for and collects premiums or charges from its credit card holders who have authorized it to do so, if the company does not adjust or settle claims;
 - (xi) a person who adjusts or settles claims in the normal course of the person's practice or employment as an attorney and who does not collect charges or premiums in connection with life or disability insurance or annuities; or
 - (xii) a person appointed as a managing general agent in this state whose activities are limited exclusively to those described in 33-2-1501(10) and Title 33, chapter 2, part 16.
- (4) "Administrator license" means a document issued by the commissioner that authorizes a person to act as an administrator.
- (5) (a) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.
- (b) The term does not include an individual.
- ~~(5)~~(6) "Consultant" means a person who for a fee examines, appraises, reviews, or evaluates an insurance policy, annuity, or pension contract, plan, or program or who makes recommendations or gives advice on an insurance policy, annuity, or pension contract, plan, or program.
- ~~(6)~~(7) "Consultant license" means a document issued by the commissioner that authorizes a person to act as an insurance consultant.
- ~~(7) "Controlled business" means insurance procured or to be procured by or through a person upon the~~

~~life, person, property, or risks of the person or the person's spouse, employer, or business.~~

(8) "Individual" means a ~~private or~~ natural person, ~~as distinguished from a partnership, corporation, or association.~~

(9) "Insurance producer", except as provided in 33-17-103~~1~~:

~~— (a) means:~~

~~— (i) a person who solicits, negotiates, effects, procures, delivers, renews, continues, or binds:~~

~~— (A) policies of insurance for risks residing, located, or to be performed in this state; or~~

~~— (B) membership contracts as defined in 33-30-101;~~

~~— (ii) a managing general agent. For purposes of this chapter, the term "managing general agent" has the same meaning as set forth in 33-2-1501.~~

~~— (b) does not mean a customer service representative. For purposes of this definition, a "customer service representative" means a salaried employee of an insurance producer who assists and is responsible to the insurance producer~~ means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

(10) "Lapse" means the expiration of the license for failure to renew by the biennial renewal date.

~~(10)~~(11) "License" means a document issued by the commissioner that authorizes a person to act as an insurance producer for the ~~kinds of insurance~~ lines of authority specified in the document. The license itself does not create actual, apparent, or inherent authority in the holder to represent or commit an insurer to a binding agreement.

~~(11)~~(12) "Limited line credit insurance" includes credit life insurance, credit disability insurance, credit property insurance, credit unemployment insurance, involuntary unemployment insurance, mortgage life insurance, mortgage guaranty insurance, mortgage disability insurance, gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing the credit obligation and that the commissioner determines should be designated as a form of limited line credit insurance.

~~(12)~~(13) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

~~(13)~~(14) "Limited lines insurance" means those lines of insurance ~~defined in 33-1-211 through 33-1-219 or any other line of insurance~~ that the commissioner finds necessary to recognize for the purposes of complying with 33-17-401(3).

~~(14)~~(15) "Limited lines producer" means a person authorized by the commissioner to sell, solicit, or negotiate limited lines insurance.

~~(15)~~(16) "Lines of authority" means any kind of insurance as defined in Title 33.

(17) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract if the person engaged in negotiation either sells insurance or obtains insurance from insurers for purchasers.

~~(16)~~(18) "Person" means an individual, ~~partnership, corporation, association, or other legal entity~~ a business entity.

~~(17)~~(19) "Public adjuster" means an adjuster employed by and representing the interests of the insured.

(20) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

(21) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance.

(22) "Suspend" means to bar the use of a person's license for a period of time.

~~(18)~~(23) "Uniform application" means the national association of insurance commissioners' uniform application for resident and nonresident insurance producer licensing.

(24) "Uniform business entity application" means the national association of insurance commissioners uniform business entity application for resident and nonresident business entities."

Section 11. Section 33-17-103, MCA, is amended to read:

"33-17-103. Exemptions from definition of insurance producer. The definition of insurance producer contained in 33-17-102 does not include:

(1) ~~a person~~ an individual who is a regularly salaried officer or employee of an insurer and who is engaged in the performance of usual and customary executive, administrative, or clerical duties and whose duties do not include the negotiation, sale, or solicitation of insurance;

(2) ~~a person~~ an individual who is a salaried employee in the office of an insurance producer and who devotes ~~his~~ the individual's full time to clerical and administrative services, including the incidental taking of insurance applications and receipt of premiums in the office of ~~his~~ the individual's employer, if the ~~employee individual~~ does not receive any commissions on the applications and ~~his~~ the individual's compensation is not varied by the volume of applications or premiums ~~he~~ the individual takes or receives;

(3) a person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, or group or blanket accident and disability insurance or for the purpose of enrolling individuals under ~~such those~~ plans, issuing certificates under ~~such those~~ plans, or otherwise assisting in administering ~~such those~~ plans; if ~~no~~ a commission is not paid for the service;

(4) an employer, ~~his~~ the employer's officers; or employees, or the trustees of an employee trust plan, to the extent that the employer, officers, employees, or trustees are engaged in the administration ~~of~~ or operation of a program of employee benefits for their own employees or the employees of their subsidiaries or affiliates if the program involves the use of insurance issued by an insurer and the employer, officers, employees, or trustees are not compensated in any manner, directly or indirectly, by the insurer issuing the contracts; ~~or~~

(5) a person who is:

(a) an employee of an insurer or of an organization employed by an insurer, which insurer or organization is engaged in the inspection, rating, or classification of insurance risks or in the supervision of the training of insurance producers; and

(b) not individually engaged in the selling, solicitation, or negotiation of insurance policies and contracts;

(6) an attorney advising a client on general insurance matters, provided the attorney does not sell, solicit, or negotiate insurance; or

(7) a salaried full-time employee who counsels or advises the employer or the subsidiaries or affiliates of the employer about the life insurance or annuities if the employee does not sell or solicit insurance or receive a commission or fee;

(8) A PERSON WHOSE ACTIVITIES IN THIS STATE ARE LIMITED TO ADVERTISING WITHOUT THE INTENT TO SOLICIT INSURANCE IN THIS STATE THROUGH COMMUNICATIONS IN PRINTED PUBLICATIONS OR OTHER FORMS OF ELECTRONIC MASS MEDIA WHOSE DISTRIBUTION IS NOT LIMITED TO RESIDENTS OF THIS STATE IF THE PERSON DOES NOT SELL, SOLICIT, OR NEGOTIATE INSURANCE CONTRACTS WITH RESPECT TO RISKS LOCATED IN THIS STATE; OR

(9) A PERSON WHO IS NOT A RESIDENT OF THIS STATE WHO SELLS, SOLICITS, OR NEGOTIATES A CONTRACT OF INSURANCE FOR COMMERCIAL PROPERTY AND CASUALTY RISKS WITH RESPECT TO AN INSURED WITH RISKS LOCATED IN MORE THAN ONE STATE THAT ARE INSURED UNDER THE CONTRACT IF THE PERSON IS LICENSED IN THE STATE WHERE THE INSURED MAINTAINS ITS PRINCIPAL PLACE OF BUSINESS AND THE CONTRACT INSURES RISKS LOCATED IN THAT STATE."

Section 12. Section 33-17-201, MCA, is amended to read:

"33-17-201. License required of insurance producer -- forms -- background examinations. (1) ~~A~~ For subjects of insurance resident, located, or to be performed in this state, a A person may not in this state sell,

~~solicit, or negotiate insurance or act as or hold himself out to be an insurance producer IN THIS STATE for subjects of insurance located, residing, or to be performed in this state~~ unless licensed as an insurance producer under this chapter.

(2) The commissioner may prescribe by rule and make available the forms required in connection with application for, issuance, continuation, suspension, or termination of a license.

(3) All resident applicants shall undergo prelicensing background examinations. The applicant or insurer shall pay the cost of the background examinations.

~~(3) Unless licensed as a life insurance producer as required by this section, a person may not in this state solicit life insurance or annuities or procure applications for life insurance or annuities or engage or hold himself out as engaging in the business of analyzing or abstracting life insurance policies or annuities or of counseling or advising or giving opinions, other than as a licensed attorney, relative to insurance or annuities for fee, commission, or other compensation, other than as a salaried full-time employee counseling and advising his employer relative to the insurance interests of the employer and of the subsidiaries or business affiliates of the employer or with respect to the insurance interests of employees of the employer, subsidiaries, or affiliates under group insurance or similar insurance plans arranged by the employer or employers of the employees.~~

~~——— (4) A person licensed to sell coverage only for the all-risk federal crop insurance program shall receive a license restricted to that purpose.~~

~~——— (5) A representative of a fraternal benefit society who solicits and negotiates insurance contracts is an insurance producer and is subject to the same licensing requirements as those for an insurance producer, except that a license is not required of:~~

~~——— (a) an officer, employee, or secretary of a fraternal benefit society or of a subordinate lodge or branch of a fraternal benefit society who devotes substantially all of his time to activities other than the solicitation or negotiation of insurance contracts and who receives no commission or other compensation directly dependent upon the number or amount of insurance contracts solicited or negotiated; or~~

~~——— (b) a representative of a fraternal benefit society who devotes or intends to devote less than 50% of his time to the solicitation and procurement of insurance contracts for the fraternal benefit society. A person who in the preceding calendar year has solicited and procured life insurance with a face amount in excess of \$50,000 or, in the case of any other kind or kinds of insurance that the fraternal benefit society may write, on more than 25 individuals and who has received or will receive a commission or other compensation for the insurance is presumed to be devoting or intending to devote, 50% of his time to the solicitation or procurement of insurance contracts for the fraternal benefit society.~~

~~———(6) The commissioner may not grant or extend a license to a person if the license is being or will be used to write controlled business. The commissioner shall consider a license to have been, or intended to be, used for the purpose of writing controlled business if, during any 12-month period, the aggregate amount of premiums on controlled business would exceed the aggregate amount of premiums on all other insurance business of the applicant or licensee."~~

Section 13. Section 33-17-211, MCA, is amended to read:

"33-17-211. General qualifications -- application for license. (1) An individual applying for a license shall apply on a form specified by the commissioner and declare under penalty of refusal, suspension, or revocation of the license that statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall verify that the individual:

- (a) is 18 years of age or older;
- (b) has not committed an act that is a ground for refusal, suspension, or revocation as set forth in 33-17-1001;
- (c) has paid the license fees stated in 33-2-708;
- (d) has successfully passed the examinations for each kind of insurance for which the individual has applied within 12 months of application;
- (e) is a resident of this state or of another state that grants similar privileges to residents of this state. Licenses issued based upon Montana state residency terminate if the licensee relocates to another state.
- (f) is competent, trustworthy, and of good reputation;
- (g) has experience or training or otherwise is qualified in the kind or kinds of insurance for which the applicant applies to be licensed and is reasonably familiar with the provisions of this code that govern the applicant's operations as an insurance producer; ~~and~~
- (h) if applying for a license as to life or disability insurance:
 - (i) is not a funeral director, undertaker, or mortician operating in this or any other state;
 - (ii) is not an officer, employee, or representative of a funeral director, undertaker, or mortician operating in this or any other state; or
 - (iii) does not hold an interest in or benefit from a business of a funeral director, undertaker, or mortician operating in this or any other state; and
 - (i) has completed a background examination pursuant to [section 2].

(2) A resident or nonresident business entity acting as an insurance producer is required to obtain an insurance producer's license. Application must be made using the uniform business entity application. In order to approve the application, the commissioner shall verify that:

- (a) the business entity has paid the appropriate fee; and
- (b) the business entity has designated an individual licensed insurance producer who is responsible for the business entity's compliance with the insurance laws of this state.

~~(2)~~(3) A person acting as an insurance producer shall obtain a license. A person shall apply for a license on a form specified by the commissioner. Before approving the application, the commissioner shall verify that:

- (a) the person meets the requirements listed in subsection (1);
- (b) the person has paid the licensing fees stated in 33-2-708 for each individual licensed in conjunction with the person's license. A licensed person shall promptly notify the commissioner of each change relating to an individual listed in the license.
- (c) the person has designated a licensed officer responsible for compliance by the person with the insurance laws and rules of this state;
- (d) each member and employee of a partnership and each officer, director, stockholder, or employee of a corporation who is acting as an insurance producer in this state has obtained a license;
- (e) (i) if the person is a partnership or corporation, the transaction of insurance business is within the purposes stated in the partnership agreement or the articles of incorporation; and
- (ii) if the person is a corporation, the secretary of state has issued a certificate of existence or authority under 35-1-1312 or filed articles of incorporation under 35-1-220.

~~(3)~~(4) The commissioner may license as a resident insurance producer an association of licensed Montana insurance producers, whether or not incorporated, formed and existing substantially for purposes other than insurance. The license must be used solely for the purpose of enabling the association to place, as a resident insurance producer, insurance of the properties, interests, and risks of the state of Montana and of other public agencies, bodies, and institutions and to receive the customary commission for the placement. The president and secretary of the association shall apply for the license in the name of the association, and the commissioner shall issue the license to the association in its name alone. The fee for the license is the same as that required by 33-2-708(1)(a). The commissioner may, after a hearing with notice to the association, revoke the license if the commissioner finds that continuation of the license is not in the public interest or that a ground listed in 33-17-1001 exists.

~~(4)~~(5) An insurance producer using an assumed business name shall register the name with the

commissioner before using it."

Section 14. Section 33-17-212, MCA, is amended to read:

"33-17-212. Examination required -- exceptions -- fees. (1) Except as provided in subsection (6), an individual applying for a license is required to pass a written examination. The examination must test the knowledge of the individual concerning each kind of insurance listed in subsection (5) for which application is made, the duties and responsibilities of an insurance producer, and the insurance laws and rules of this state. The examination must be developed and conducted under rules adopted by the commissioner.

(2) The commissioner may conduct the examination or make arrangements, including contracting with an outside testing service, for administering the examination. The commissioner may arrange for the testing service to recover the cost of the examination from the applicant.

(3) An individual who fails to appear for the examination as scheduled or fails to pass the examination may reapply for an examination and shall remit all forms before being rescheduled for another examination.

(4) If the applicant is a partnership or corporation, each individual who is to be named in the license as having authority to act for the applicant in its insurance transactions under the license shall meet the qualifications as provided in this section.

(5) Examination of an applicant for a license must cover all of the kinds of insurance for which the applicant has applied to be licensed, as constituted by any one or more of the following classifications:

- (a) life insurance;
- (b) disability insurance;
- (c) property insurance. For the purposes of this provision, property insurance includes marine insurance.
- (d) casualty insurance;
- (e) surety insurance;
- (f) ~~credit life and disability~~ limited lines credit insurance;
- (g) title insurance.

(6) This section does not apply to and an examination is not required of:

(a) an individual lawfully licensed as an insurance producer as to the kind or kinds of insurance to be transacted as of or immediately prior to January 1, 1961, and who continues to be licensed;

(b) an applicant for a license covering the same kind or kinds of insurance as to which the applicant was licensed in this state, other than under a temporary license, within the 12 months immediately preceding the date of application unless the commissioner has suspended, revoked, or ~~refused to continue~~ terminated the previous

license, except that this subsection (6)(b) does not apply to a title insurance producer, as defined in 33-25-105;

(c) an applicant for a license as a nonresident insurance producer;

~~(d) an applicant for a license to sell all-risk federal crop insurance if the applicant provides certification from an appropriate governmental agency to the commissioner that the applicant is qualified to sell the insurance;~~

~~—— (e)(d) transportation ticket agents of common carriers applying for a license to solicit and sell only:~~

(i) accident insurance ticket policies; or

(ii) insurance of personal effects while being carried as baggage on a common carrier, as incidental to their duties as transportation ticket agents;

~~(f)(e)~~ an association applying for a license under 33-17-211;

~~(g) a mechanical breakdown insurance producer;~~

~~—— (h) a prepaid legal plans producer;~~

~~—— (i) a gap insurance producer;~~

~~—— (j) involuntary unemployment insurance producer;~~

~~—— (k) a credit property insurance, credit unemployment insurance, or mortgage guaranty insurance producer; or~~

~~(f)(f)~~ an individual who, within ~~60~~ 90 days of cancellation of a license issued by the state of the individual's residence, files with the commissioner a current letter of clearance certifying that the individual has passed an examination and held an insurance license in good standing in the individual's state of licensure, except that the individual shall take an examination pertaining to this state's law and each kind of insurance for which the individual has applied for a license and that is not covered under the license held in the other state.

(7) (a) Subject to the provisions of subsection (7)(b), an individual who applies for a nonresident insurance producer license in this state and who was previously licensed for the same lines of authority in another state may not be required to complete any preclicensing education or examination.

(b) The exemption in subsection (7)(a) is available only if the individual is currently licensed in the other state or the individual's application is received within 90 days of the cancellation of the individual's previous license and if the other state issues a certification that, at the time of the cancellation, the individual was in good standing in that state or the state's database records, maintained by the national association of insurance commissioners or any of the association's affiliates or subsidiaries that the association oversees, indicate that the insurance producer is or was licensed in good standing for the lines of authority requested."

Section 15. Section 33-17-214, MCA, is amended to read:

"33-17-214. Issuance of license -- insurance producer lines of authority -- license data -- lapse of license -- change of address. (1) A person who has met the requirements of 33-17-211 and 33-17-212 must be issued a license, unless that person has been denied a license pursuant to 33-17-1001.

(2) An insurance producer may receive a license qualifying the insurance producer in one or more of the following lines of authority:

(a) life insurance coverage on human lives, including benefits of endowment and annuities, and the coverage may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(b) accident and health or sickness insurance coverage providing for sickness, bodily injury, or accidental death, and the coverage may provide benefits for disability income;

(c) property insurance coverage for the direct or consequential loss or damage to property of every kind;

(d) casualty insurance coverage against legal liability, including liability for death, injury, or disability or damage to real or personal property;

(e) variable life and variable annuity products insurance coverage provided under variable life insurance contracts and variable annuities;

(f) personal lines of property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;

(g) limited line credit insurance; or

(h) any other line of insurance permitted under Title 33.

(3) The license must state the name and address of the licensee, personal identification number, date of issuance, general conditions relative to expiration or termination, kind of insurance covered, and other information that the commissioner considers necessary.

(4) The license of a partnership, corporation, or association must also state the name of each individual authorized to exercise the license powers.

(5) Each license remains in effect, unless it is suspended, or revoked, or terminated or the license lapses.

(6) A person shall inform the commissioner in writing of a change of address within 30 days of the change."

Section 16. Section 33-17-301, MCA, is amended to read:

"33-17-301. Adjuster license -- qualifications -- catastrophe adjustments -- public adjuster. (1) A

~~person~~ An individual may not act as or purport to be an adjuster in this state unless licensed as an adjuster under this chapter. ~~A person~~ An individual shall apply for an adjuster license to the commissioner according to forms that the commissioner prescribes and furnishes. The commissioner shall issue the adjuster license to individuals qualified to be licensed as an adjuster.

(2) To be licensed as an adjuster, the applicant:

(a) must be an individual 18 years of age or more;

(b) must be a resident of Montana or resident of another state that will permit residents of Montana regularly to act as adjusters in the other state;

~~(c) must be a full-time salaried employee of a licensed adjuster or a graduate of a recognized law school or have had experience or special education or training as to the handling of loss claims under insurance contracts of sufficient duration and extent reasonably to make the applicant competent to fulfill the responsibilities of an adjuster~~ shall pass an adjuster licensing examination as prescribed by the commissioner and pay the fee pursuant to 33-2-708;

(d) must be trustworthy and of good character and reputation; and

(e) must have and shall maintain in this state an office accessible to the public and shall keep in the office for not less than 5 years the usual and customary records pertaining to transactions under the license. This provision does not prohibit maintenance of the office in the home of the licensee.

(3) A partnership or corporation, whether or not organized under the laws of this state, may be licensed as an adjuster if each individual who is to exercise the adjuster license powers is separately licensed or is named in the partnership or corporation adjuster license and is qualified for an individual adjuster license.

(4) An adjuster license or qualifications are not required for an adjuster who is sent into this state by and on behalf of an insurer or adjusting partnership or corporation for the purpose of investigating or making adjustments of a particular loss under an insurance policy or for the adjustment of a series of losses resulting from a catastrophe common to all losses.

(5) An adjuster license continues in force until ~~expired~~ lapsed, suspended, revoked, or terminated. ~~The license is subject to renewal upon written request to the commissioner~~ The licensee shall renew the license by the biennial renewal date and pay the appropriate fee or the license will lapse. The biennial fee is established pursuant to 33-2-708.

(6) The commissioner may adopt rules providing for the examination, licensure, bonding, and regulation of public adjusters."

Section 17. Section 33-17-502, MCA, is amended to read:

"33-17-502. Prohibition on holding out as consultant -- receiving fee. (1) A person not licensed as an insurance consultant in this state who identifies or represents to the public that the person is an insurance consultant without having been licensed as an insurance consultant under this part or a person who uses any other designation or title that is likely to mislead the public and represents to the public that the person has particular insurance qualifications other than those for which the person may be otherwise licensed or otherwise qualified ~~is guilty of a misdemeanor and upon conviction shall be fined \$1,500~~ may be fined pursuant to 33-1-317.

(2) A person not licensed as an insurance consultant with respect to the relevant kinds of insurance who receives a fee for examining, appraising, reviewing, or evaluating any insurance policy, annuity or pension contract, plan, or program or who makes recommendations or gives advice with regard to any insurance policy, annuity or pension contract, plan, or program without first having been licensed by the commissioner as an insurance consultant ~~is guilty of a misdemeanor and upon conviction shall be fined \$1,500~~ may be fined pursuant to 33-1-317.

(3) This part does not apply to:

- (a) licensed attorneys at law in this state acting in their professional capacity; or
- (b) an actuary or a certified public accountant who provides information, recommendations, advice, or services in a professional capacity if neither the actuary nor the certified public accountant or the actuary's or certified public accountant's employer receives any compensation directly or indirectly on account of any insurance, bond, annuity or pension contract that results in whole or part from that information, recommendation, advice, or services."

Section 18. Section 33-17-503, MCA, is amended to read:

"33-17-503. Application -- fee -- expiration. (1) Before a consultant license is issued or renewed, the prospective licensee shall:

(a) properly file in the office of the commissioner a written application on forms the commissioner prescribes; and

(b) pay a fee of \$50, ~~which the commissioner shall deposit with the state treasurer to be credited to the state's general fund pursuant to 33-2-708.~~

(2) ~~Each consultant license must be renewed each year by the consultant paying a continuation fee on or before May 31, and the license continues in force unless suspended, revoked, or otherwise terminated. A consultant license continues in force until lapsed, suspended, revoked, or terminated."~~

Section 19. Section 33-17-504, MCA, is amended to read:

"33-17-504. Issuing license -- limitations. The commissioner may issue a consultant license to an individual who has complied with the requirements of this chapter with respect to either life insurance, meaning all of those kinds of insurance authorized in 33-1-207, 33-1-208, 33-20-1001, 33-21-103, 33-22-501, and 33-22-601, or general insurance, meaning all of those kinds of insurance authorized in 33-1-206, 33-1-207, 33-1-209 through 33-1-212, 33-1-214 through 33-1-219, and 33-1-221 through 33-1-229, as specified in the license."

Section 20. Section 33-17-1001, MCA, is amended to read:

"33-17-1001. Suspension, revocation, or refusal of license. (1) The commissioner may suspend, revoke, refuse to renew, or refuse to issue an insurance producer's license, adjuster license, or consultant license, or may levy a civil penalty in accordance with 33-1-317, or may choose any combination of actions; when an insurance producer, adjuster, consultant, or applicant for ~~an insurance producer's license~~ those licenses has:

(a) engaged or is about to engage in an act or practice for which issuance of the license could have been refused;

(b) obtained or attempted to obtain a license through misrepresentation or fraud, including but not limited to providing incorrect, misleading, incomplete, or materially untrue information in the license application or in the continuing education affidavit;

(c) violated or failed to comply with a provision of this code or has violated a rule, subpoena, or order of the commissioner or of the commissioner of any other state;

(d) improperly withheld, misappropriated, or converted to the licensee's or applicant's own use money or property belonging to policyholders, insurers, beneficiaries, or others and received in conduct of business under the license;

(e) been convicted of a felony;

(f) in the conduct of the affairs under the license, used fraudulent, coercive, or dishonest practices or the licensee or applicant is incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the public;

~~(g) made a materially untrue statement in the license application or in the continuing education affidavit;~~

~~———(h)(g) misrepresented the terms of an actual or proposed insurance contract or application for insurance;~~

~~(i)(h)~~ been found guilty of an unfair trade practice or fraud prohibited by Title 33, chapter 18;

~~(j)(i)~~ had a similar license suspended or revoked in any other state;

~~(k)(j)~~ forged another's name to an application for insurance or to any document related to an insurance transaction;

~~(h)(k)~~ cheated on an examination for a license; or

~~(m)(l)~~ knowingly accepted insurance business from a person who is not licensed.

(2) The license of a partnership or corporation may be suspended, revoked, refused, or denied if a reason listed in subsection (1) applies to an individual designated in the license to exercise its powers.

~~(3) The commissioner may suspend, revoke, or refuse to continue a license under subsection (1)(e) without conducting an investigation pursuant to 37-1-203 or making a written finding pursuant to 37-1-204. The commissioner retains the authority to enforce the provisions of and impose any penalty or remedy authorized by the insurance code against any person who is under investigation for or charged with a violation of the insurance code even if the person's license or registration has been surrendered or has lapsed."~~

Section 21. Section 33-17-1002, MCA, is amended to read:

"33-17-1002. Procedure following suspension or revocation. (1) Upon suspension, ~~or revocation,~~ or refusal of a license, the commissioner shall immediately notify the licensee ~~of the suspension or revocation either in person or~~ or applicant by mail addressed to the licensee or applicant at ~~his~~ the last-known address ~~last of record with~~ contained in the records of the commissioner. Notice ~~by mail~~ is effectuated when ~~the notice is~~ mailed.

~~(2) The commissioner may reissue a license that has lapsed if the insurance producer has paid the lapsed license reinstatement fee pursuant to 33-2-708 and has filed certification of completion of continuing education requirements for the preceding biennium within 1 year of the lapse occurring.~~

~~(2)(3)~~ The commissioner may not again issue a license under this code to a person whose license has been revoked until after expiration of 1 year and ~~thereafter not~~ until the person again qualifies for a license in accordance with this code. If the commissioner revokes a person's license, the commissioner may refuse to issue a license to the person for up to 5 years after the revocation. A person whose license has been revoked twice is not again eligible for any license under this code.

~~(3)(4)~~ If the license of a partnership or corporation is suspended or revoked, ~~no~~ a member of the partnership or officer or director of the corporation may not be licensed or be designated in a license to exercise its powers during the period of the suspension or revocation unless the commissioner determines upon substantial evidence that the member, officer, or director was not personally at fault and did not acquiesce in the matter on account of which the license was suspended or revoked."

Section 22. Section 33-17-1203, MCA, is amended to read:

"33-17-1203. Continuing education -- basic requirements -- exceptions. (1) Unless exempt under subsection (4):

(a) a person licensed to act as an insurance producer ~~for property, casualty, surety, or title insurance~~ or as a consultant ~~for general insurance~~ other than a person licensed for limited lines credit insurance shall, during each ~~calendar year~~ 24-month period, complete at least ~~10~~ 24 credit hours of approved continuing education;

~~(b) a person licensed to act as an insurance producer for life or disability insurance or as a consultant for life insurance shall, during each calendar year, complete at least 10 credit hours of approved continuing education;~~

~~—— (c) a person holding multiple licenses shall, during each calendar year, complete at least 15 credit hours of approved continuing education;~~

~~(d)(b)~~ a person licensed to act as an insurance producer only for limited lines credit ~~life and disability~~ insurance shall, during each ~~calendar year~~ biennium, complete ~~2-1/2~~ 5 credit hours of approved continuing education in the areas of insurance law, ethics, or ~~credit life and disability~~ limited lines credit insurance;

~~(e)(c)~~ a person licensed as an insurance producer or consultant shall, during each biennium, complete at least 1 credit hour of approved continuing education on changes in Montana insurance statutes and administrative rules.

(2) If a person licensed as an insurance producer or consultant completes more credit hours of approved continuing education in a ~~year~~ biennium than the minimum required in subsection (1), the excess credit hours may be carried forward and applied to the continuing education requirements of the next ~~year~~ biennium.

(3) The commissioner may, for good cause, grant an extension of time, not to exceed 1 year, during which the requirements imposed by subsection (1) may be completed.

(4) The minimum continuing education requirements do not apply to:

~~(a) a person licensed to sell any kind of insurance for which an examination is not required under 33-17-212(6)(d) through (6)(l);~~

~~—— (b)(a)~~ a person holding a temporary license issued under 33-17-216; or

~~(c) a newly licensed insurance producer or consultant during the calendar year in which the licensee first received a license;~~

~~—— (d) a person who only executes surety bail bonds; or~~

~~—— (e)(b)~~ an insurance producer or consultant otherwise exempted by the commissioner."

Section 23. Section 33-17-1205, MCA, is amended to read:

"33-17-1205. Compliance -- failure to comply -- rulemaking authority. (1) Each person subject to the requirements of 33-17-1203 shall file ~~annually on a form~~ biennially in a format supplied by the commissioner ~~written~~ certification as to the approved courses, lectures, seminars, and instructional programs successfully completed by that person during the preceding ~~calendar year~~ biennium.

(2) ~~The commissioner may suspend the license of any person failing to comply with subsection (1) who has not been granted an extension under 33-17-1203 and may impose a late renewal fee of \$20, which is the same amount previously determined by an administrative rule in effect on November 3, 1998. The suspension must remain in effect until the time that the person demonstrates to the satisfaction of the commissioner that the person has complied with all the provisions of this part. If the license of an insurance producer or consultant is suspended by reason of this section for a period exceeding 12 months, the license must be terminated upon notice to the insurance producer or consultant. If a person fails to comply with this section, the person's license lapses.~~

(3) In the continuing education affidavit, an insurance producer shall report to the commissioner the final disposition of any administrative action or the final disposition of any criminal action taken against the insurance producer in another jurisdiction or by another governmental agency in this state. As used in this subsection, "final disposition of any criminal action" means a plea agreement or sentence and judgment.

~~(3)~~(4) Each person providing approved courses, lectures, seminars, and instructional programs, including insurance company education programs, shall file annually with the commissioner an alphabetical list of the names and addresses of all persons who have successfully completed an approved continuing education activity during the preceding calendar year.

~~(4)~~(5) The commissioner may, following the process provided for in 33-1-314, withdraw approval of all courses, lectures, seminars, and instructional programs of any person that fails to comply with subsection ~~(3)~~ (4). The commissioner may, after having conducted a hearing pursuant to 33-1-701, impose a fine upon a person that has failed to comply with subsection ~~(3)~~ (4). The fine may not exceed the penalty permitted by 33-1-317.

(6) The commissioner may adopt rules establishing the requirements for biennial filing and reporting of continuing education credits."

Section 24. Section 33-17-1207, MCA, is amended to read:

"33-17-1207. Funding for continuing education program. All ~~annual~~ continuing education filing fees collected by the commissioner and fees paid to the commissioner for the review of initial applications for approval

of continuing education courses or the periodic review of these courses must be turned over promptly to the state treasurer who shall place the money in the state special revenue fund to the credit of the state auditor's office to be used for the continuing education program. The funds allocated by this section to the state special revenue fund may be used only to defray the expenses of the state auditor's office in discharging its duties as prescribed by this part, subject to the applicable laws relating to the appropriation of state funds and to the deposit and expenditure of state money. The state auditor is responsible for the proper expenditure of this money as provided by law."

NEW SECTION. Section 25. Coordination instruction. If ____ Bill No. ____ [LC 797] and [this act] are passed and approved, then [section 8 7] of this act, amending 33-2-708, is amended to read:

"**Section 8 7.** Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) (a) Except as provided in 33-17-212(2), the commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, ~~100.00~~ \$100;

(B) ~~annual~~ biennial renewal of license ~~10.00~~ \$50;

(C) lapsed license reinstatement fee, \$100;

(ii) resident insurance producer's license lapsed license reinstatement fee, \$100;

~~(ii)~~ (iii) surplus lines insurance ~~producer~~ producer's license:

(A) application for original license and for issuance of license, if issued, ~~50.00~~ \$50;

(B) ~~annual~~ biennial renewal of license ~~50.00~~ \$100;

(C) lapsed license reinstatement fee, \$200;

(iv) insurance adjuster's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(v) insurance consultant's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(vi) resident and nonresident rental car entity producer's license:

(A) application for original license, including issuance of license, if issued, \$100;

(B) quarterly filing fee, \$25;

(iii)(vii) 50 cents for each page for copies of documents on file in the commissioner's office.

(c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.

(2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization submitting courses or programs for review in any biennium.

(b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).

(3) The commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, and 33-28-201. All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.

(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded.""

NEW SECTION. Section 26. Codification instruction. (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 33, chapter 17, and the provisions of Title 33, chapter 17, apply to [sections 1 and 2].

(2) [Section 3] is intended to be codified as an integral part of Title 33, chapter 1, part 2, and the provisions of Title 33, chapter 1, part 2, apply to [section 3].

(3) [Section 4] is intended to be codified as an integral part of Title 33, chapter 26, and the provisions of Title 33, chapter 26, apply to [section 4].

(4) [Section 5] is intended to be codified as an integral part of Title 33, chapter 17, part 4, and the provisions of Title 33, chapter 17, part 4, apply to [section 5].

NEW SECTION. Section 27. Effective date -- applicability. ~~[This act]~~ (1) EXCEPT AS PROVIDED IN

SUBSECTION (2), [THIS ACT] is effective July 1, 2003, and applies to licenses issued or renewed on or after July 1, 2003.

(2) [SECTION 2] APPLIES TO LICENSE APPLICATIONS POSTMARKED ON OR AFTER JULY 1, 2004.

- END -



AN ACT REVISING THE LAWS OF LICENSING FOR INSURANCE PRODUCERS, ADJUSTERS, AND CONSULTANTS; PROVIDING FOR INACTIVE STATUS FOR INSURANCE PRODUCERS SERVING IN THE ARMED FORCES; REQUIRING AN INSURANCE PRODUCER LICENSING BACKGROUND EXAMINATION AND PROVIDING EXAMINATION CRITERIA; DEFINING "CAR RENTAL INSURANCE"; REVISING THE PAYMENT OF FEES FOR LICENSES AND RENEWAL OF LICENSES RELATING TO INSURANCE; REVISING THE STATUS OF NONRESIDENT INSURANCE PRODUCERS; PROVIDING FOR BIENNIAL RENEWAL OF LICENSES AND PAYMENT OF BIENNIAL LICENSE FEES FOR CERTAIN PRODUCERS; SIMPLIFYING THE INSURANCE CONTINUING EDUCATION REQUIREMENTS; AMENDING SECTIONS 33-2-305, 33-2-708, 33-7-525, 33-7-532, 33-17-102, 33-17-103, 33-17-201, 33-17-211, 33-17-212, 33-17-214, 33-17-301, 33-17-502, 33-17-503, 33-17-504, 33-17-1001, 33-17-1002, 33-17-1203, 33-17-1205, AND 33-17-1207, MCA; AND PROVIDING AN EFFECTIVE DATE AND APPLICABILITY DATES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Inactive status -- insurance producers serving in armed forces. (1) The commissioner may place an insurance producer on inactive status if the insurance producer enters active service in the armed forces of the United States.

(2) An insurance producer may not transact the business of insurance while on inactive status.

(3) The commissioner shall waive the continuing education requirements in 33-17-1205 and the fee in 33-2-708 while an insurance producer is on inactive status.

(4) In order to be placed on inactive status, an insurance producer shall notify the commissioner when called to active service.

(5) In order to be taken off inactive status, an insurance producer shall notify the commissioner when discharged from active service.

Section 2. Licensing background examination -- entity registry criteria. (1) (a) Each applicant shall obtain a complete background examination. The applicant or insurer shall pay the cost of the background examination. The background examination report must provide information to confirm:

- (i) the applicant's:
 - (A) identity;
 - (B) current address;
 - (C) professional license certification; and
 - (D) military service; and
- (ii) (A) existing or ongoing criminal investigations and court records relating to the applicant; and
- (B) regulatory agencies' disciplinary actions concerning the applicant.
- (b) The background examination is confidential and may not be held as part of the licensee's public file.
- (2) An entity may not conduct licensing background examinations unless the entity maintains a current filing with the commissioner. The filing must:
 - (a) contain a description of the criteria, standards, and procedures used in conducting the background examination;
 - (b) ensure that the examination will be based on nationally recognized criteria, standards, and procedures; and
 - (c) ensure confidentiality of the applicant's information.
- (3) The commissioner may adopt rules to further implement this section, including but not limited to rules on the length of time that a background examination is valid and rules for the electronic filing of fingerprints.

Section 3. Rental car insurance. Rental car insurance is insurance that:

- (1) provides coverage for periods of less than 90 days;
- (2) applies only to the rental car subject to the rental agreement; and
- (3) is limited to the following kinds of insurance:
 - (a) personal accident insurance for renters and other rental car occupants, for accidental death or dismemberment, and for medical expenses resulting from an accident that occurs with the rental car during the rental period;
 - (b) liability insurance that provides protection to the renters and other authorized drivers of a rental car for liability arising from the operation or use of the rental car during the rental period;
 - (c) personal effects insurance that provides coverage to renters and other vehicle occupants for loss of or damage to personal effects in the rental car during the rental period; or
 - (d) motor club services, as defined in 61-12-301.

Section 4. Rulemaking authority for surety insurers. The commissioner may adopt rules regarding surety insurers who sell, solicit, or negotiate commercial bail bonds. The rules must include but are not limited to rules regarding the receipt of collateral, the description of collateral received, the penalty for failure to return collateral, and an annual list of forfeitures of bonds.

Section 5. Status of nonresident insurance producers -- biennial renewal of license -- payment of fees. A nonresident insurance producer's license continues in force until lapsed, suspended, revoked, or terminated. The license lapses if the licensee fails to remit a biennial renewal fee.

Section 6. Section 33-2-305, MCA, is amended to read:

"33-2-305. Licensing of surplus lines insurance producer -- fee and bond. (1) A person may not place a contract of surplus lines insurance with an unauthorized insurer unless the person is licensed as a property and casualty insurance producer and possesses a current surplus lines insurance license issued by the commissioner.

(2) The commissioner shall issue a surplus lines insurance producer's license to any qualified holder of a current property and casualty insurance producer license only if the insurance producer has:

- (a) remitted to the commissioner the annual fee prescribed by 33-2-708;
- (b) submitted to the commissioner a completed license application on a form supplied by the commissioner; and
- (c) been licensed as a property and casualty insurance producer continuously for 5 years or more; ~~and~~
- ~~—— (d) filed with the commissioner and, for as long as the license remains in effect, kept in force a bond in favor of the state of Montana in the amount of \$10,000, with authorized corporate sureties approved by the commissioner. The bond must be conditioned that the insurance producer will conduct business under the license in accordance with the provisions of The Surplus Lines Insurance Law and that the insurance producer will promptly remit the taxes provided in 33-2-311. The bond may not be terminated unless the surety gives the surplus lines insurance producer, the producing insurance producer, and the commissioner at least 30 days' prior written notice of termination.~~

~~(3) The license expires on April 1 after its date of issue. A surplus lines insurance producer shall renew the license on or before March 1 of each year upon payment of the annual renewal fee prescribed in 33-2-708. A surplus lines insurance producer who fails to apply for a renewal of the license on or before March 1 shall pay~~

~~a fine of \$100 before the commissioner renews the license~~ licensee shall renew the license on a form prescribed by the commissioner. The commissioner may establish rules for biennial renewal of the license. A license lapses if not renewed.

(4) A corporation is eligible to be licensed as a surplus lines insurance producer if:

(a) the corporate license lists the individuals within the corporation who have satisfied the requirements of this part to become surplus lines insurance producers; and

(b) only those individuals listed on the corporate license transact surplus lines insurance.

(5) This section may not be construed to require agents, producers, or brokers acting as intermediaries between a surplus lines insurance producer and an unauthorized insurer under this part to hold a valid Montana surplus lines insurance producer's license."

Section 7. Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) (a) Except as provided in 33-17-212(2), the commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, ~~100.00~~ \$100;

(B) ~~annual~~ biennial renewal of license, ~~10.00~~ \$50;

(C) lapsed license reinstatement fee, \$100;

(ii) resident insurance producer's license lapsed license reinstatement fee, \$50;

~~(ii)~~ (iii) surplus lines insurance producer producer's license:

(A) application for original license and for issuance of license, if issued, ~~50.00~~ \$50;

(B) ~~annual~~ biennial renewal of license, ~~50.00~~ \$100;

(C) lapsed license reinstatement fee, \$200;

(iv) insurance adjuster's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(v) insurance consultant's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(iii)(vi) 50 cents for each page for copies of documents on file in the commissioner's office.

(c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.

(2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization submitting courses or programs for review in any biennium.

(b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).

(3) The commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, and 33-28-201. All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.

(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded."

Section 8. Section 33-7-525, MCA, is amended to read:

"33-7-525. Insurance producer defined -- fraternal benefit society insurance contracts. (1) The term "insurance producer", as used in this chapter, means any authorized or acknowledged insurance producer of a society who acts as ~~such an insurance producer~~ in the solicitation, negotiation, or ~~procurement or making sale~~ of a life insurance, accident and health insurance, or annuity contract.

(2) The term "~~insurance producer~~" does not include any regular salaried officer or employee of a licensed society who devotes substantially all of ~~his~~ the officer's or employee's services to activities other than the solicitation of fraternal insurance contracts from the public and who receives for the solicitation of ~~such the~~ contracts no commission or other compensation directly dependent upon the amount of business obtained."

Section 9. Section 33-7-532, MCA, is amended to read:

"33-7-532. Producer Insurance producer licensing -- fraternal benefit society. (1) A society's insurance producer ~~must be~~ is considered to be an insurance producer and is subject to the same licensing requirements as insurance producers under Title 33, chapter 17, ~~except that an examination is not required of an individual who is licensed in this state as an insurance producer for a society as to the kind of insurance to be transacted on or before October 1, 1981, and who continues to be licensed as an insurance producer.~~

(2) A society doing business in this state may not pay to a person who is not a licensed insurance producer of the society any commission or other compensation for any services in obtaining in this state any new contract of life, accident, or health insurance or any new annuity contract."

Section 10. Section 33-17-102, MCA, is amended to read:

"33-17-102. Definitions. As used in this title, the following definitions apply:

(1) (a) "Adjuster" means a person who, on behalf of the insurer, for compensation as an independent contractor or as the employee of an independent contractor or for a fee or commission investigates and negotiates the settlement of claims arising under insurance contracts or otherwise acts on behalf of the insurer.

(b) The term does not include a:

~~(a)~~(i) licensed attorney who is qualified to practice law in this state;

~~(b)~~(ii) salaried employee of an insurer or of a managing general agent;

~~(c)~~(iii) licensed insurance producer who adjusts or assists in adjustment of losses arising under policies issued by the insurer; or

~~(d)~~(iv) licensed third-party administrator who adjusts or assists in adjustment of losses arising under policies issued by the insurer.

(2) "Adjuster license" means a document issued by the commissioner that authorizes a person to act as an adjuster.

(3) (a) "Administrator" means a person who collects charges or premiums from residents of this state in connection with life, disability, property, or casualty insurance or annuities or who adjusts or settles claims on these coverages.

(b) The term does not ~~mean~~ include:

(i) an employer on behalf of its employees or on behalf of the employees of one or more subsidiaries of affiliated corporations of the employer;

(ii) a union on behalf of its members;

(iii) (A) an insurer that is either authorized in this state or acting as an insurer with respect to a policy lawfully issued and delivered by it in and pursuant to the laws of a state in which the insurer is authorized to transact insurance; or

(B) a health service corporation as defined in 33-30-101;

(iv) a life, disability, property, or casualty insurance producer who is licensed in this state and whose activities are limited exclusively to the sale of insurance;

(v) a creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;

(vi) a trust established in conformity with 29 U.S.C. 186 or the trustees, agents, and employees of the trust;

(vii) a trust exempt from taxation under section 501(a) of the Internal Revenue Code or the trustees and employees of the trust;

(viii) a custodian acting pursuant to a custodian account that meets the requirements of section 401(f) of the Internal Revenue Code or the agents and employees of the custodian;

(ix) a bank, credit union, or other financial institution that is subject to supervision or examination by federal or state banking authorities;

(x) a company that issues credit cards and that advances for and collects premiums or charges from its credit card holders who have authorized it to do so, if the company does not adjust or settle claims;

(xi) a person who adjusts or settles claims in the normal course of the person's practice or employment as an attorney and who does not collect charges or premiums in connection with life or disability insurance or annuities; or

(xii) a person appointed as a managing general agent in this state whose activities are limited exclusively to those described in 33-2-1501(10) and Title 33, chapter 2, part 16.

(4) "Administrator license" means a document issued by the commissioner that authorizes a person to act as an administrator.

(5) (a) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(b) The term does not include an individual.

~~(5)(6)~~ "Consultant" means a person who for a fee examines, appraises, reviews, or evaluates an insurance policy, annuity, or pension contract, plan, or program or who makes recommendations or gives advice

on an insurance policy, annuity, or pension contract, plan, or program.

~~(6)~~(7) "Consultant license" means a document issued by the commissioner that authorizes a person to act as an insurance consultant.

~~(7) "Controlled business" means insurance procured or to be procured by or through a person upon the life, person, property, or risks of the person or the person's spouse, employer, or business.~~

~~(8) "Individual" means a private or natural person, as distinguished from a partnership, corporation, or association.~~

(9) "Insurance producer", except as provided in 33-17-103,:

———~~(a) means:~~

———~~(i) a person who solicits, negotiates, effects, procures, delivers, renews, continues, or binds:~~

———~~(A) policies of insurance for risks residing, located, or to be performed in this state; or~~

———~~(B) membership contracts as defined in 33-30-101;~~

———~~(ii) a managing general agent. For purposes of this chapter, the term "managing general agent" has the same meaning as set forth in 33-2-1501.~~

———~~(b) does not mean a customer service representative. For purposes of this definition, a "customer service representative" means a salaried employee of an insurance producer who assists and is responsible to the insurance producer~~ means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

(10) "Lapse" means the expiration of the license for failure to renew by the biennial renewal date.

~~(10)~~(11) "License" means a document issued by the commissioner that authorizes a person to act as an insurance producer for the ~~kinds of insurance~~ lines of authority specified in the document. The license itself does not create actual, apparent, or inherent authority in the holder to represent or commit an insurer to a binding agreement.

~~(11)~~(12) "Limited line credit insurance" includes credit life insurance, credit disability insurance, credit property insurance, credit unemployment insurance, involuntary unemployment insurance, mortgage life insurance, mortgage guaranty insurance, mortgage disability insurance, gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing the credit obligation and that the commissioner determines should be designated as a form of limited line credit insurance.

~~(12)~~(13) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one

or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

~~(13)~~(14) "Limited lines insurance" means those lines of insurance ~~defined in 33-1-211 through 33-1-219 or any other line of insurance~~ that the commissioner finds necessary to recognize for the purposes of complying with 33-17-401(3).

~~(14)~~(15) "Limited lines producer" means a person authorized by the commissioner to sell, solicit, or negotiate limited lines insurance.

~~(15)~~(16) "Lines of authority" means any kind of insurance as defined in Title 33.

(17) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract if the person engaged in negotiation either sells insurance or obtains insurance from insurers for purchasers.

~~(16)~~(18) "Person" means an individual, ~~partnership, corporation, association, or other legal entity a~~ business entity.

~~(17)~~(19) "Public adjuster" means an adjuster employed by and representing the interests of the insured.

(20) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

(21) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance.

(22) "Suspend" means to bar the use of a person's license for a period of time.

~~(18)~~(23) "Uniform application" means the national association of insurance commissioners' uniform application for resident and nonresident insurance producer licensing.

(24) "Uniform business entity application" means the national association of insurance commissioners uniform business entity application for resident and nonresident business entities."

Section 11. Section 33-17-103, MCA, is amended to read:

"33-17-103. Exemptions from definition of insurance producer. The definition of insurance producer ~~contained in 33-17-102~~ does not include:

(1) ~~a person~~ an individual who is a regularly salaried officer or employee of an insurer and who is engaged in the performance of usual and customary executive, administrative, or clerical duties and whose duties

do not include the negotiation, sale, or solicitation of insurance;

(2) ~~a person~~ an individual who is a salaried employee in the office of an insurance producer and who devotes ~~his~~ the individual's full time to clerical and administrative services, including the incidental taking of insurance applications and receipt of premiums in the office of ~~his~~ the individual's employer, if the ~~employee~~ individual does not receive any commissions on the applications and ~~his~~ the individual's compensation is not varied by the volume of applications or premiums ~~he~~ the individual takes or receives;

(3) a person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, or group or blanket accident and disability insurance or for the purpose of enrolling individuals under ~~such~~ those plans, issuing certificates under ~~such~~ those plans, or otherwise assisting in administering ~~such~~ those plans; if ~~no~~ a commission is not paid for the service;

(4) an employer, ~~his~~ the employer's officers; or employees; or the trustees of an employee trust plan, to the extent that the employer, officers, employees, or trustees are engaged in the administration ~~of~~ or operation of a program of employee benefits for their own employees or the employees of their subsidiaries or affiliates if the program involves the use of insurance issued by an insurer and the employer, officers, employees, or trustees are not compensated in any manner, directly or indirectly, by the insurer issuing the contracts; ~~or~~

(5) a person who is:

(a) an employee of an insurer or of an organization employed by an insurer, which insurer or organization is engaged in the inspection, rating, or classification of insurance risks or in the supervision of the training of insurance producers; and

(b) not individually engaged in the selling, solicitation, or negotiation of insurance policies and contracts;

(6) an attorney advising a client on general insurance matters, provided the attorney does not sell, solicit, or negotiate insurance;

(7) a salaried full-time employee who counsels or advises the employer or the subsidiaries or affiliates of the employer about the life insurance or annuities if the employee does not sell or solicit insurance or receive a commission or fee;

(8) a person whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of this state if the person does not sell, solicit, or negotiate insurance contracts with respect to risks located in this state; or

(9) a person who is not a resident of this state who sells, solicits, or negotiates a contract of insurance

for commercial property and casualty risks with respect to an insured with risks located in more than one state that are insured under the contract if the person is licensed in the state where the insured maintains its principal place of business and the contract insures risks located in that state."

Section 12. Section 33-17-201, MCA, is amended to read:

"33-17-201. License required of insurance producer -- forms -- background examinations. (1) ~~A~~ A person may not in this state sell, solicit, or negotiate insurance or act as or hold himself out to be an insurance producer in this state for subjects of insurance located, residing, or to be performed in this state unless licensed as an insurance producer under this chapter.

(2) The commissioner may prescribe by rule and make available the forms required in connection with application for, issuance, continuation, suspension, or termination of a license.

(3) All resident applicants shall undergo prelicensing background examinations. The applicant or insurer shall pay the cost of the background examinations.

~~(3) Unless licensed as a life insurance producer as required by this section, a person may not in this state solicit life insurance or annuities or procure applications for life insurance or annuities or engage or hold himself out as engaging in the business of analyzing or abstracting life insurance policies or annuities or of counseling or advising or giving opinions, other than as a licensed attorney, relative to insurance or annuities for fee, commission, or other compensation, other than as a salaried full-time employee counseling and advising his employer relative to the insurance interests of the employer and of the subsidiaries or business affiliates of the employer or with respect to the insurance interests of employees of the employer, subsidiaries, or affiliates under group insurance or similar insurance plans arranged by the employer or employers of the employees.~~

~~—— (4) A person licensed to sell coverage only for the all-risk federal crop insurance program shall receive a license restricted to that purpose.~~

~~—— (5) A representative of a fraternal benefit society who solicits and negotiates insurance contracts is an insurance producer and is subject to the same licensing requirements as those for an insurance producer, except that a license is not required of:~~

~~—— (a) an officer, employee, or secretary of a fraternal benefit society or of a subordinate lodge or branch of a fraternal benefit society who devotes substantially all of his time to activities other than the solicitation or negotiation of insurance contracts and who receives no commission or other compensation directly dependent upon the number or amount of insurance contracts solicited or negotiated; or~~

~~—— (b) a representative of a fraternal benefit society who devotes or intends to devote less than 50% of his time to the solicitation and procurement of insurance contracts for the fraternal benefit society. A person who in the preceding calendar year has solicited and procured life insurance with a face amount in excess of \$50,000 or, in the case of any other kind or kinds of insurance that the fraternal benefit society may write, on more than 25 individuals and who has received or will receive a commission or other compensation for the insurance is presumed to be devoting or intending to devote, 50% of his time to the solicitation or procurement of insurance contracts for the fraternal benefit society.~~

~~—— (6) The commissioner may not grant or extend a license to a person if the license is being or will be used to write controlled business. The commissioner shall consider a license to have been, or intended to be, used for the purpose of writing controlled business if, during any 12-month period, the aggregate amount of premiums on controlled business would exceed the aggregate amount of premiums on all other insurance business of the applicant or licensee."~~

Section 13. Section 33-17-211, MCA, is amended to read:

"33-17-211. General qualifications -- application for license. (1) An individual applying for a license shall apply on a form specified by the commissioner and declare under penalty of refusal, suspension, or revocation of the license that statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall verify that the individual:

- (a) is 18 years of age or older;
- (b) has not committed an act that is a ground for refusal, suspension, or revocation as set forth in 33-17-1001;
- (c) has paid the license fees stated in 33-2-708;
- (d) has successfully passed the examinations for each kind of insurance for which the individual has applied within 12 months of application;
- (e) is a resident of this state or of another state that grants similar privileges to residents of this state. Licenses issued based upon Montana state residency terminate if the licensee relocates to another state.
- (f) is competent, trustworthy, and of good reputation;
- (g) has experience or training or otherwise is qualified in the kind or kinds of insurance for which the applicant applies to be licensed and is reasonably familiar with the provisions of this code that govern the

applicant's operations as an insurance producer; ~~and~~

(h) if applying for a license as to life or disability insurance:

(i) is not a funeral director, undertaker, or mortician operating in this or any other state;

(ii) is not an officer, employee, or representative of a funeral director, undertaker, or mortician operating in this or any other state; or

(iii) does not hold an interest in or benefit from a business of a funeral director, undertaker, or mortician operating in this or any other state; ~~and~~

(i) has completed a background examination pursuant to [section 2].

(2) A resident or nonresident business entity acting as an insurance producer is required to obtain an insurance producer's license. Application must be made using the uniform business entity application. In order to approve the application, the commissioner shall verify that:

(a) the business entity has paid the appropriate fee; and

(b) the business entity has designated an individual licensed insurance producer who is responsible for the business entity's compliance with the insurance laws of this state.

~~(2)~~(3) A person acting as an insurance producer shall obtain a license. A person shall apply for a license on a form specified by the commissioner. Before approving the application, the commissioner shall verify that:

(a) the person meets the requirements listed in subsection (1);

(b) the person has paid the licensing fees stated in 33-2-708 for each individual licensed in conjunction with the person's license. A licensed person shall promptly notify the commissioner of each change relating to an individual listed in the license.

(c) the person has designated a licensed officer responsible for compliance by the person with the insurance laws and rules of this state;

(d) each member and employee of a partnership and each officer, director, stockholder, or employee of a corporation who is acting as an insurance producer in this state has obtained a license;

(e) (i) if the person is a partnership or corporation, the transaction of insurance business is within the purposes stated in the partnership agreement or the articles of incorporation; and

(ii) if the person is a corporation, the secretary of state has issued a certificate of existence or authority under 35-1-1312 or filed articles of incorporation under 35-1-220.

~~(3)~~(4) The commissioner may license as a resident insurance producer an association of licensed Montana insurance producers, whether or not incorporated, formed and existing substantially for purposes other

than insurance. The license must be used solely for the purpose of enabling the association to place, as a resident insurance producer, insurance of the properties, interests, and risks of the state of Montana and of other public agencies, bodies, and institutions and to receive the customary commission for the placement. The president and secretary of the association shall apply for the license in the name of the association, and the commissioner shall issue the license to the association in its name alone. The fee for the license is the same as that required by 33-2-708(1)(a). The commissioner may, after a hearing with notice to the association, revoke the license if the commissioner finds that continuation of the license is not in the public interest or that a ground listed in 33-17-1001 exists.

~~(4)~~(5) An insurance producer using an assumed business name shall register the name with the commissioner before using it."

Section 14. Section 33-17-212, MCA, is amended to read:

"33-17-212. Examination required -- exceptions -- fees. (1) Except as provided in subsection (6), an individual applying for a license is required to pass a written examination. The examination must test the knowledge of the individual concerning each kind of insurance listed in subsection (5) for which application is made, the duties and responsibilities of an insurance producer, and the insurance laws and rules of this state. The examination must be developed and conducted under rules adopted by the commissioner.

(2) The commissioner may conduct the examination or make arrangements, including contracting with an outside testing service, for administering the examination. The commissioner may arrange for the testing service to recover the cost of the examination from the applicant.

(3) An individual who fails to appear for the examination as scheduled or fails to pass the examination may reapply for an examination and shall remit all forms before being rescheduled for another examination.

(4) If the applicant is a partnership or corporation, each individual who is to be named in the license as having authority to act for the applicant in its insurance transactions under the license shall meet the qualifications as provided in this section.

(5) Examination of an applicant for a license must cover all of the kinds of insurance for which the applicant has applied to be licensed, as constituted by any one or more of the following classifications:

- (a) life insurance;
- (b) disability insurance;
- (c) property insurance. For the purposes of this provision, property insurance includes marine insurance.

- (d) casualty insurance;
- (e) surety insurance;
- (f) ~~credit life and disability~~ limited lines credit insurance;
- (g) title insurance.

(6) This section does not apply to and an examination is not required of:

(a) an individual lawfully licensed as an insurance producer as to the kind or kinds of insurance to be transacted as of or immediately prior to January 1, 1961, and who continues to be licensed;

(b) an applicant for a license covering the same kind or kinds of insurance as to which the applicant was licensed in this state, other than under a temporary license, within the 12 months immediately preceding the date of application unless the commissioner has suspended, revoked, or ~~refused to continue~~ terminated the previous license, ~~except that this subsection (6)(b) does not apply to a title insurance producer, as defined in 33-25-105;~~

(c) an applicant for a license as a nonresident insurance producer;

~~(d) an applicant for a license to sell all-risk federal crop insurance if the applicant provides certification from an appropriate governmental agency to the commissioner that the applicant is qualified to sell the insurance;~~

~~———(e)(d)~~ transportation ticket agents of common carriers applying for a license to solicit and sell only:

(i) accident insurance ticket policies; or

(ii) insurance of personal effects while being carried as baggage on a common carrier, as incidental to their duties as transportation ticket agents;

~~(f)(e)~~ an association applying for a license under 33-17-211;

~~(g) a mechanical breakdown insurance producer;~~

~~———(h) a prepaid legal plans producer;~~

~~———(i) a gap insurance producer;~~

~~———(j) involuntary unemployment insurance producer;~~

~~———(k) a credit property insurance, credit unemployment insurance, or mortgage guaranty insurance producer; or~~

~~(f)(f)~~ an individual who, within ~~60~~ 90 days of cancellation of a license issued by the state of the individual's residence, files with the commissioner a current letter of clearance certifying that the individual has passed an examination and held an insurance license in good standing in the individual's state of licensure, except that the individual shall take an examination pertaining to this state's law and each kind of insurance for which the individual has applied for a license and that is not covered under the license held in the other state.

(7) (a) Subject to the provisions of subsection (7)(b), an individual who applies for a nonresident insurance producer license in this state and who was previously licensed for the same lines of authority in another state may not be required to complete any prelicensing education or examination.

(b) The exemption in subsection (7)(a) is available only if the individual is currently licensed in the other state or the individual's application is received within 90 days of the cancellation of the individual's previous license and if the other state issues a certification that, at the time of the cancellation, the individual was in good standing in that state or the state's database records, maintained by the national association of insurance commissioners or any of the association's affiliates or subsidiaries that the association oversees, indicate that the insurance producer is or was licensed in good standing for the lines of authority requested."

Section 15. Section 33-17-214, MCA, is amended to read:

"33-17-214. Issuance of license -- insurance producer lines of authority -- license data -- lapse of license -- change of address. (1) A person who has met the requirements of 33-17-211 and 33-17-212 must be issued a license, unless that person has been denied a license pursuant to 33-17-1001.

(2) An insurance producer may receive a license qualifying the insurance producer in one or more of the following lines of authority:

(a) life insurance coverage on human lives, including benefits of endowment and annuities, and the coverage may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(b) accident and health or sickness insurance coverage providing for sickness, bodily injury, or accidental death, and the coverage may provide benefits for disability income;

(c) property insurance coverage for the direct or consequential loss or damage to property of every kind;

(d) casualty insurance coverage against legal liability, including liability for death, injury, or disability or damage to real or personal property;

(e) variable life and variable annuity products insurance coverage provided under variable life insurance contracts and variable annuities;

(f) personal lines of property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;

(g) limited line credit insurance; or

(h) any other line of insurance permitted under Title 33.

(3) The license must state the name and address of the licensee, personal identification number, date of issuance, general conditions relative to expiration or termination, kind of insurance covered, and other information that the commissioner considers necessary.

(4) The license of a partnership, corporation, or association must also state the name of each individual authorized to exercise the license powers.

(5) Each license remains in effect, unless it is suspended, or revoked, or terminated or the license lapses.

(6) A person shall inform the commissioner in writing of a change of address within 30 days of the change."

Section 16. Section 33-17-301, MCA, is amended to read:

"33-17-301. Adjuster license -- qualifications -- catastrophe adjustments -- public adjuster. (1) ~~A person~~ An individual may not act as or purport to be an adjuster in this state unless licensed as an adjuster under this chapter. ~~A person~~ An individual shall apply for an adjuster license to the commissioner according to forms that the commissioner prescribes and furnishes. The commissioner shall issue the adjuster license to individuals qualified to be licensed as an adjuster.

(2) To be licensed as an adjuster, the applicant:

(a) must be an individual 18 years of age or more;

(b) must be a resident of Montana or resident of another state that will permit residents of Montana regularly to act as adjusters in the other state;

(c) ~~must be a full-time salaried employee of a licensed adjuster or a graduate of a recognized law school or have had experience or special education or training as to the handling of loss claims under insurance contracts of sufficient duration and extent reasonably to make the applicant competent to fulfill the responsibilities of an adjuster~~ shall pass an adjuster licensing examination as prescribed by the commissioner and pay the fee pursuant to 33-2-708;

(d) must be trustworthy and of good character and reputation; and

(e) must have and shall maintain in this state an office accessible to the public and shall keep in the office for not less than 5 years the usual and customary records pertaining to transactions under the license. This provision does not prohibit maintenance of the office in the home of the licensee.

(3) A partnership or corporation, whether or not organized under the laws of this state, may be licensed

as an adjuster if each individual who is to exercise the adjuster license powers is separately licensed or is named in the partnership or corporation adjuster license and is qualified for an individual adjuster license.

(4) An adjuster license or qualifications are not required for an adjuster who is sent into this state by and on behalf of an insurer or adjusting partnership or corporation for the purpose of investigating or making adjustments of a particular loss under an insurance policy or for the adjustment of a series of losses resulting from a catastrophe common to all losses.

(5) An adjuster license continues in force until ~~expired~~ lapsed, suspended, revoked, or terminated. ~~The license is subject to renewal upon written request to the commissioner~~ The licensee shall renew the license by the biennial renewal date and pay the appropriate fee or the license will lapse. The biennial fee is established pursuant to 33-2-708.

(6) The commissioner may adopt rules providing for the examination, licensure, bonding, and regulation of public adjusters."

Section 17. Section 33-17-502, MCA, is amended to read:

"33-17-502. Prohibition on holding out as consultant -- receiving fee. (1) A person not licensed as an insurance consultant in this state who identifies or represents to the public that the person is an insurance consultant without having been licensed as an insurance consultant under this part or a person who uses any other designation or title that is likely to mislead the public and represents to the public that the person has particular insurance qualifications other than those for which the person may be otherwise licensed or otherwise qualified ~~is guilty of a misdemeanor and upon conviction shall be fined \$1,500~~ may be fined pursuant to 33-1-317.

(2) A person not licensed as an insurance consultant with respect to the relevant kinds of insurance who receives a fee for examining, appraising, reviewing, or evaluating any insurance policy, annuity or pension contract, plan, or program or who makes recommendations or gives advice with regard to any insurance policy, annuity or pension contract, plan, or program without first having been licensed by the commissioner as an insurance consultant ~~is guilty of a misdemeanor and upon conviction shall be fined \$1,500~~ may be fined pursuant to 33-1-317.

(3) This part does not apply to:

- (a) licensed attorneys at law in this state acting in their professional capacity; or
- (b) an actuary or a certified public accountant who provides information, recommendations, advice, or services in a professional capacity if neither the actuary nor the certified public accountant or the actuary's or

certified public accountant's employer receives any compensation directly or indirectly on account of any insurance, bond, annuity or pension contract that results in whole or part from that information, recommendation, advice, or services."

Section 18. Section 33-17-503, MCA, is amended to read:

"33-17-503. Application -- fee -- expiration. (1) Before a consultant license is issued or renewed, the prospective licensee shall:

(a) properly file in the office of the commissioner a written application on forms the commissioner prescribes; and

(b) pay a fee of \$50, which the commissioner shall deposit with the state treasurer to be credited to the state's general fund pursuant to 33-2-708.

(2) ~~Each consultant license must be renewed each year by the consultant paying a continuation fee on or before May 31, and the license continues in force unless suspended, revoked, or otherwise terminated. A~~ consultant license continues in force until lapsed, suspended, revoked, or terminated."

Section 19. Section 33-17-504, MCA, is amended to read:

"33-17-504. Issuing license -- limitations. The commissioner may issue a consultant license to an individual who has complied with the requirements of this chapter with respect to either life insurance, meaning all of those kinds of insurance authorized in 33-1-207, 33-1-208, 33-20-1001, 33-21-103, 33-22-501, and 33-22-601, or general insurance, meaning all of those kinds of insurance authorized in 33-1-206, 33-1-207, 33-1-209 through 33-1-212, 33-1-214 through 33-1-219, and 33-1-221 through 33-1-229, as specified in the license."

Section 20. Section 33-17-1001, MCA, is amended to read:

"33-17-1001. Suspension, revocation, or refusal of license. (1) The commissioner may suspend, revoke, refuse to renew, or refuse to issue an insurance producer's license, adjuster license, or consultant license, or may levy a civil penalty in accordance with 33-1-317, or may choose any combination of actions; when an insurance producer, adjuster, consultant, or applicant for ~~an insurance producer's license~~ those licenses has:

(a) engaged or is about to engage in an act or practice for which issuance of the license could have been refused;

(b) obtained or attempted to obtain a license through misrepresentation or fraud, including but not limited to providing incorrect, misleading, incomplete, or materially untrue information in the license application or in the continuing education affidavit;

(c) violated or failed to comply with a provision of this code or has violated a rule, subpoena, or order of the commissioner or of the commissioner of any other state;

(d) improperly withheld, misappropriated, or converted to the licensee's or applicant's own use money or property belonging to policyholders, insurers, beneficiaries, or others and received in conduct of business under the license;

(e) been convicted of a felony;

(f) in the conduct of the affairs under the license, used fraudulent, coercive, or dishonest practices or the licensee or applicant is incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the public;

~~(g) made a materially untrue statement in the license application or in the continuing education affidavit;~~

~~—(h)(g)~~ misrepresented the terms of an actual or proposed insurance contract or application for insurance;

~~(i)(h)~~ been found guilty of an unfair trade practice or fraud prohibited by Title 33, chapter 18;

~~(j)(i)~~ had a similar license suspended or revoked in any other state;

~~(k)(j)~~ forged another's name to an application for insurance or to any document related to an insurance transaction;

~~(l)(k)~~ cheated on an examination for a license; or

~~(m)(l)~~ knowingly accepted insurance business from a person who is not licensed.

(2) The license of a partnership or corporation may be suspended, revoked, refused, or denied if a reason listed in subsection (1) applies to an individual designated in the license to exercise its powers.

(3) ~~The commissioner may suspend, revoke, or refuse to continue a license under subsection (1)(e) without conducting an investigation pursuant to 37-1-203 or making a written finding pursuant to 37-1-204. The commissioner retains the authority to enforce the provisions of and impose any penalty or remedy authorized by the insurance code against any person who is under investigation for or charged with a violation of the insurance code even if the person's license or registration has been surrendered or has lapsed.~~

Section 21. Section 33-17-1002, MCA, is amended to read:

"33-17-1002. Procedure following suspension or revocation. (1) Upon suspension, ~~or~~ revocation,

or refusal of a license, the commissioner shall immediately notify the licensee ~~of the suspension or revocation either in person or or applicant~~ by mail addressed to the licensee or applicant at ~~his~~ the last-known address ~~last of record with~~ contained in the records of the commissioner. Notice ~~by mail~~ is effectuated when ~~the notice is~~ mailed.

(2) The commissioner may reissue a license that has lapsed if the insurance producer has paid the lapsed license reinstatement fee pursuant to 33-2-708 and has filed certification of completion of continuing education requirements for the preceding biennium within 1 year of the lapse occurring.

~~(2)(3)~~ The commissioner may not again issue a license under this code to a person whose license has been revoked until after expiration of 1 year and ~~thereafter not~~ until the person again qualifies for a license in accordance with this code. If the commissioner revokes a person's license, the commissioner may refuse to issue a license to the person for up to 5 years after the revocation. A person whose license has been revoked twice is not again eligible for any license under this code.

~~(3)(4)~~ If the license of a partnership or corporation is suspended or revoked, ~~no~~ a member of the partnership or officer or director of the corporation may not be licensed or be designated in a license to exercise its powers during the period of the suspension or revocation unless the commissioner determines upon substantial evidence that the member, officer, or director was not personally at fault and did not acquiesce in the matter on account of which the license was suspended or revoked."

Section 22. Section 33-17-1203, MCA, is amended to read:

"33-17-1203. Continuing education -- basic requirements -- exceptions. (1) Unless exempt under subsection (4):

(a) a person licensed to act as an insurance producer ~~for property, casualty, surety, or title insurance~~ or as a consultant ~~for general insurance~~ other than a person licensed for limited lines credit insurance shall, during each ~~calendar year~~ 24-month period, complete at least ~~10~~ 24 credit hours of approved continuing education;

~~(b) a person licensed to act as an insurance producer for life or disability insurance or as a consultant for life insurance shall, during each calendar year, complete at least 10 credit hours of approved continuing education;~~

~~— (c) a person holding multiple licenses shall, during each calendar year, complete at least 15 credit hours of approved continuing education;~~

~~(d)~~(b) a person licensed to act as an insurance producer only for limited lines credit life and disability insurance shall, during each ~~calendar year~~ biennium, complete ~~2 1/2~~ 5 credit hours of approved continuing education in the areas of insurance law, ethics, or ~~credit life and disability~~ limited lines credit insurance;

~~(e)~~(c) a person licensed as an insurance producer or consultant shall, during each biennium, complete at least 1 credit hour of approved continuing education on changes in Montana insurance statutes and administrative rules.

(2) If a person licensed as an insurance producer or consultant completes more credit hours of approved continuing education in a ~~year~~ biennium than the minimum required in subsection (1), the excess credit hours may be carried forward and applied to the continuing education requirements of the next ~~year~~ biennium.

(3) The commissioner may, for good cause, grant an extension of time, not to exceed 1 year, during which the requirements imposed by subsection (1) may be completed.

(4) The minimum continuing education requirements do not apply to:

~~(a) a person licensed to sell any kind of insurance for which an examination is not required under 33-17-212(6)(d) through (6)(f);~~

~~_____ (b)(a)~~ a person holding a temporary license issued under 33-17-216; or

~~(c) a newly licensed insurance producer or consultant during the calendar year in which the licensee first received a license;~~

~~_____ (d) a person who only executes surety bail bonds; or~~

~~_____ (e)~~(b) an insurance producer or consultant otherwise exempted by the commissioner."

Section 23. Section 33-17-1205, MCA, is amended to read:

"33-17-1205. Compliance -- failure to comply -- rulemaking authority. (1) Each person subject to the requirements of 33-17-1203 shall file ~~annually on a form~~ biennially in a format supplied by the commissioner ~~written~~ certification as to the approved courses, lectures, seminars, and instructional programs successfully completed by that person during the preceding ~~calendar year~~ biennium.

(2) ~~The commissioner may suspend the license of any person failing to comply with subsection (1) who has not been granted an extension under 33-17-1203 and may impose a late renewal fee of \$20, which is the same amount previously determined by an administrative rule in effect on November 3, 1998. The suspension must remain in effect until the time that the person demonstrates to the satisfaction of the commissioner that the person has complied with all the provisions of this part. If the license of an insurance producer or consultant is~~

~~suspended by reason of this section for a period exceeding 12 months, the license must be terminated upon notice to the insurance producer or consultant~~ If a person fails to comply with this section, the person's license lapses.

(3) In the continuing education affidavit, an insurance producer shall report to the commissioner the final disposition of any administrative action or the final disposition of any criminal action taken against the insurance producer in another jurisdiction or by another governmental agency in this state. As used in this subsection, "final disposition of any criminal action" means a plea agreement or sentence and judgment.

~~(3)~~(4) Each person providing approved courses, lectures, seminars, and instructional programs, including insurance company education programs, shall file annually with the commissioner an alphabetical list of the names and addresses of all persons who have successfully completed an approved continuing education activity during the preceding calendar year.

~~(4)~~(5) The commissioner may, following the process provided for in 33-1-314, withdraw approval of all courses, lectures, seminars, and instructional programs of any person that fails to comply with subsection ~~(3)~~ (4). The commissioner may, after having conducted a hearing pursuant to 33-1-701, impose a fine upon a person that has failed to comply with subsection ~~(3)~~ (4). The fine may not exceed the penalty permitted by 33-1-317.

(6) The commissioner may adopt rules establishing the requirements for biennial filing and reporting of continuing education credits."

Section 24. Section 33-17-1207, MCA, is amended to read:

"33-17-1207. Funding for continuing education program. All ~~annual~~ continuing education filing fees collected by the commissioner and fees paid to the commissioner for the review of initial applications for approval of continuing education courses or the periodic review of these courses must be turned over promptly to the state treasurer who shall place the money in the state special revenue fund to the credit of the state auditor's office to be used for the continuing education program. The funds allocated by this section to the state special revenue fund may be used only to defray the expenses of the state auditor's office in discharging its duties as prescribed by this part, subject to the applicable laws relating to the appropriation of state funds and to the deposit and expenditure of state money. The state auditor is responsible for the proper expenditure of this money as provided by law."

Section 25. Coordination instruction. If Senate Bill No. 254 and [this act] are passed and approved,

then [section 7] of this act, amending 33-2-708, is amended to read:

"Section 7. Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) (a) Except as provided in 33-17-212(2), the commissioner shall collect a fee of \$1,900 from each insurer applying for or annually renewing a certificate of authority to conduct the business of insurance in Montana.

(b) The commissioner shall collect certain additional fees as follows:

(i) nonresident insurance producer's license:

(A) application for original license, including issuance of license, if issued, ~~100.00~~ \$100;

(B) ~~annual~~ biennial renewal of license ~~10.00~~ \$50;

(C) lapsed license reinstatement fee, \$100;

(ii) resident insurance producer's license lapsed license reinstatement fee, \$100;

~~(ii)~~(iii) surplus lines insurance ~~producer~~ producer's license:

(A) application for original license and for issuance of license, if issued, ~~50.00~~ \$50;

(B) ~~annual~~ biennial renewal of license ~~50.00~~ \$100;

(C) lapsed license reinstatement fee, \$200;

(iv) insurance adjuster's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(v) insurance consultant's license:

(A) application for original license, including issuance of license, if issued, \$50;

(B) biennial renewal of license, \$100;

(C) lapsed license reinstatement fee, \$200;

(vi) resident and nonresident rental car entity producer's license:

(A) application for original license, including issuance of license, if issued, \$100;

(B) quarterly filing fee, \$25;

~~(iii)~~(vii) 50 cents for each page for copies of documents on file in the commissioner's office.

(c) The commissioner may adopt rules to determine the date by which a nonresident insurance producer, a surplus lines insurance producer, an insurance adjuster, or an insurance consultant is required to pay the fee for the biennial renewal of a license.

(2) (a) The commissioner shall charge a fee of \$75 for each course or program submitted for review as required by 33-17-1204 and 33-17-1205, but may not charge more than \$1,500 to a sponsoring organization submitting courses or programs for review in any biennium.

(b) Insurers and associations composed of members of the insurance industry are exempt from the charge in subsection (2)(a).

(3) The commissioner shall promptly deposit with the state treasurer to the credit of the general fund all fines and penalties and those amounts received pursuant to 33-2-311, 33-2-705, and 33-28-201. All other fees collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33 must be deposited in the state special revenue fund to the credit of the state auditor's office.

(4) All fees are considered fully earned when received. In the event of overpayment, only those amounts in excess of \$10 will be refunded.""

Section 26. Codification instruction. (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 33, chapter 17, and the provisions of Title 33, chapter 17, apply to [sections 1 and 2].

(2) [Section 3] is intended to be codified as an integral part of Title 33, chapter 1, part 2, and the provisions of Title 33, chapter 1, part 2, apply to [section 3].

(3) [Section 4] is intended to be codified as an integral part of Title 33, chapter 26, and the provisions of Title 33, chapter 26, apply to [section 4].

(4) [Section 5] is intended to be codified as an integral part of Title 33, chapter 17, part 4, and the provisions of Title 33, chapter 17, part 4, apply to [section 5].

Section 27. Effective date -- applicability. (1) Except as provided in subsection (2), [this act] is effective July 1, 2003, and applies to licenses issued or renewed on or after July 1, 2003.

(2) [Section 2] applies to license applications postmarked on or after July 1, 2004.

- END -

I hereby certify that the within bill,
HB 0169, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2019.

President of the Senate

Signed this _____ day
of _____, 2019.

HOUSE BILL NO. 169
INTRODUCED BY KEANE
BY REQUEST OF THE STATE AUDITOR

AN ACT REVISING THE LAWS OF LICENSING FOR INSURANCE PRODUCERS, ADJUSTERS, AND CONSULTANTS; PROVIDING FOR INACTIVE STATUS FOR INSURANCE PRODUCERS SERVING IN THE ARMED FORCES; REQUIRING AN INSURANCE PRODUCER LICENSING BACKGROUND EXAMINATION AND PROVIDING EXAMINATION CRITERIA; DEFINING "CAR RENTAL INSURANCE"; REVISING THE PAYMENT OF FEES FOR LICENSES AND RENEWAL OF LICENSES RELATING TO INSURANCE; REVISING THE STATUS OF NONRESIDENT INSURANCE PRODUCERS; PROVIDING FOR BIENNIAL RENEWAL OF LICENSES AND PAYMENT OF BIENNIAL LICENSE FEES FOR CERTAIN PRODUCERS; SIMPLIFYING THE INSURANCE CONTINUING EDUCATION REQUIREMENTS; AMENDING SECTIONS 33-2-305, 33-2-708, 33-7-525, 33-7-532, 33-17-102, 33-17-103, 33-17-201, 33-17-211, 33-17-212, 33-17-214, 33-17-301, 33-17-502, 33-17-503, 33-17-504, 33-17-1001, 33-17-1002, 33-17-1203, 33-17-1205, AND 33-17-1207, MCA; AND PROVIDING AN EFFECTIVE DATE AND APPLICABILITY DATES.

HOUSE OF REPRESENTATIVES
Roll Call
BUSINESS AND LABOR COMMITTEE

DATE 1-9-03

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
REP. JOE McKENNEY, CHAIR.	✓		
REP. DON STEINBEISSER, VICE CHAIR MAJORITY	✓		
REP. JIM KEANE, VICE CHAIR MINORITY	✓		
REP. BOB BERGREN	✓		
REP. ROD BITNEY	✓		
REP. SYLVIA BOOKOUT- REINICKE	✓		
REP. NANCY RICE FRITZ	✓		
REP. DAVE GALLIK	✓		<i>ms</i>
REP. KATHLEEN GALVIN- HALCRO	✓		
REP. RAY HAWK	✓		
REP. BOB LAWSON	✓		
REP. RICK MAEDJE	✓		
REP. GARY MATTHEWS	✓		
REP. SCOTT MENDENHALL	✓		
REP. PENNY MORGAN	✓		
REP. ALLEN ROME	✓		
REP. SANDY WEISS	✓		
REP. BILL WILSON			✓

HOUSE OF REPRESENTATIVES
Roll Call
BUSINESS AND LABOR COMMITTEE

DATE 1-10-03

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
REP. JOE McKENNEY, CHAIR.	✓		
REP. DON STEINBEISSER, VICE CHAIR MAJORITY	✓		
REP. JIM KEANE, VICE CHAIR MINORITY	✓		
REP. BOB BERGREN	✓		
REP. ROD BITNEY	✓		
REP. SYLVIA BOOKOUT- REINICKE	✓		
REP. NANCY RICE FRITZ	✓		
REP. DAVE GALLIK	✓		
REP. KATHLEEN GALVIN- HALCRO	✓		
REP. RAY HAWK	✓		
REP. BOB LAWSON	✓		
REP. RICK MAEDJE	✓		
REP. GARY MATTHEWS	✓		
REP. SCOTT MENDENHALL	✓		
REP. PENNY MORGAN	✓		
REP. ALLEN ROME	✓		
REP. SANDY WEISS	✓		
REP. BILL WILSON	✓		

HOUSE OF REPRESENTATIVES

Roll Call Vote

BUSINESS AND LABOR COMMITTEE

DATE 1-10-03 BILL NO 182 MOTION NO. 1

MOTION: Amendment

NAME	AYE	NO	ABSENTEE
REP. JOE MCKENNEY, CHAIR.		✓	
REP. DON STEINBEISSER, VICE CHAIR MAJORITY		✓	
REP. JIM KEANE, VICE CHAIR MINORITY	✓		
REP. BOB BERGREN	✓		
REP. ROD BITNEY	✓		
REP. SYLVIA BOOKOUT- REINICKE		✓	
REP. NANCY RICE FRITZ		✓	
REP. DAVE GALLIK		✓	
REP. KATHLEEN GALVIN- HALCRO		✓	
REP. RAY HAWK		✓	
REP. BOB LAWSON		✓	
REP. RICK MAEDJE		✓	
REP. GARY MATTHEWS		✓	
REP. SCOTT MENDENHALL		✓	
REP. PENNY MORGAN		✓	
REP. ALLEN ROME		✓	
REP. SANDY WEISS		✓	
REP. BILL WILSON	✓		



HOUSE STANDING COMMITTEE REPORT

January 10, 2003

Page 1 of 1

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **House Bill 172** (first reading copy -- white) do pass.

Signed: _____

Joe McKenney
Representative Joe McKenney, Chair

- END -

Committee Vote:
Yes 14, No 4.

18-0

051304SC.hhn

1-10-03
1:15



HOUSE STANDING COMMITTEE REPORT

January 10, 2003

Page 1 of 1

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **House Bill 45** (first reading copy -
- white) do pass as amended.

Signed: _____

Joe McKenney
Representative Joe McKenney, Chair

And, that such amendments read:

1. Title, line 6.

Strike: "\$100,00"

Following: "BOND"

Insert: "IN AN AMOUNT TO BE SET BY THE DEPARTMENT OF
ADMINISTRATION BY RULE"

2. Page 1, line 28.

Strike: "the amount of \$100,000"

Insert: "an amount to be set by the department by rule"

- END -

Committee Vote:

Yes 18, No 0.

051300SC.hhn

1-10-03
1:15 *JS*



HOUSE STANDING COMMITTEE REPORT

January 10, 2003

Page 1 of 2

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **House Bill 182** (first reading copy -- white) do pass as amended.

Signed: _____

Representative Joe McKenney, Chair

And, that such amendments read:

1. Title, line 5.

Following: "REFERENCES"

Insert: "PERTAINING"

2. Title, line 9.

Following: "SECTIONS"

Insert: "2-15-150,"

3. Page 1, line 15.

Insert: "Section 1. Section 2-15-150, MCA, is amended to read:

"2-15-150. (Temporary) Lewis and Clark bicentennial commission -- membership -- purpose -- account. (1) There is a Lewis and Clark bicentennial commission.

(2) The commission consists of 12 members, as follows:

(a) nine members who must be appointed by the governor, at least three of whom must be enrolled members of a Montana Indian tribe and live on a Montana Indian reservation, who shall serve 3-year staggered terms, who shall represent Montana's different geographical areas, and who must have an interest in the history of the Lewis and Clark expedition;

(b) the director of the Montana historical society, established in 22-3-101;

(c) the administrator of the parks division within the department of fish, wildlife, and parks, established in 2-15-3401; and

(d) the ~~director of travel Montana~~ administrator of the

Committee Vote:

~~Yes 18, No 0.~~

14-4

051303SC.hhn

1-10-03
1:15 88

Montana promotions division within the department of commerce, established in 2-15-1801.

(3) The commission is responsible for coordinating and promoting observance of Montana's bicentennial commemoration of the Lewis and Clark expedition and the importance of the roles played by Montana's Indian people to the Lewis and Clark expedition. The commission may:

(a) cooperate with national, regional, statewide, and local events promoting the bicentennial;

(b) plan and coordinate or assist in planning and coordinating bicentennial events;

(c) engage in fundraising activities, including revenue-earning enterprises and the solicitation of grants, gifts, and donations;

(d) promote public education concerning the Lewis and Clark expedition and the history and culture of Montana's Indian people at the time of the Lewis and Clark expedition; and

(e) perform other related duties.

(4) (a) The Lewis and Clark bicentennial commission is authorized to enter into contracts, loan agreements, or other forms of indebtedness with the board of investments for an amount not to exceed \$3 million, payable over a term not to exceed 6 years, for the purposes identified in subsection (3).

(b) The Lewis and Clark bicentennial commission shall pledge to the repayment of any indebtedness the proceeds from the sale of Lewis and Clark bicentennial license plates as provided in 2-15-151.

(c) The proceeds of any loan from the board of investments to the Lewis and Clark bicentennial commission must be deposited in the account established in subsection (5).

(5) There is a Montana Lewis and Clark bicentennial account. Money in the account may include money from revenue-earning enterprises, grants, gifts, or donations, money appropriated by the legislature, and interest earned on the account. Account funds must be used for the purposes described in this section.

(6) The commission is attached to the Montana historical society for administrative purposes only as provided in 2-15-121. (Subsections (1) through (3), (5), and (6) terminate December 31, 2007--sec. 2, Ch. 428, L. 1997; subsection (4) terminates December 31, 2006--sec. 17, Ch. 414, L. 2001.)"

Renumber: subsequent sections

- END -



HOUSE STANDING COMMITTEE REPORT

January 13, 2003

Page 1 of 3

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **House Bill 72** (first reading copy - white) do pass as amended.

Signed: _____

Representative Joe McKenney, Chair

And, that such amendments read:

1. Title, line 6 through line 8.

Strike: "DEFINING" on line 6 through "PHYSICIAN";" on line 8

2. Title, line 9.

Following: "EMPLOYMENT";"

Insert: "REMOVING THE TIME LIMITATIONS FOR EXPENDITURES OF FUNDS RECEIVED PURSUANT TO SECTIONS 903 AND 904 OF THE SOCIAL SECURITY ACT FOR ADMINISTRATIVE EXPENSES;"

3. Title, line 13.

Strike: "39-51-201,"

Following: "39-51-204,"

Insert: "39-51-404,"

4. Page 1, line 18 through page 5, line 21.

Strike: strike section 1 in its entirety

Renumber: subsequent sections

5. Page 9, following line 24.

Insert: "Section 2. Section 39-51-404, MCA, is amended to read:

"39-51-404. **Administrative expenses.** (1) Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States pursuant to sections 903 and 904 of the Social Security Act (42 U.S.C. 1103

Committee Vote:

Yes 18, No 0.

~~11-14-03~~

061228SC.hhn

1-14-03
11:45

and 1104), as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this chapter pursuant to a specific appropriation by the legislature if the expenses are incurred and the money is requisitioned after the enactment of an appropriation law that:

(a) specifies the purposes for which the money is appropriated and the amounts appropriated; and

~~(b) limits the period within which the money may be expended to a period ending not more than 2 years after the date of the enactment of the appropriation law, and~~

~~(c)~~ (b) limits the amount that may be used during any 12-month period beginning on July 1 and ending on the next June 30 to an amount not exceeding the amount by which the aggregate of the amounts credited to the account of this state pursuant to sections 903 and 904 of the Social Security Act (42 U.S.C. 1103 and 1104), as amended, during the same 12-month period and the 34 preceding 12-month periods exceeds the aggregate of the amounts used pursuant to this section and charged against the amounts credited to the account of this state during any of the 35 12-month periods.

(2) For the purposes of this section, amounts used during any 12-month period must be charged against equivalent amounts that were first credited and that are not already charged, except that an amount used for administration during any 12-month period may not be charged against any amount credited during a 12-month period earlier than the 34th preceding period. Money requisitioned for the payment of expenses of administration pursuant to this section must be deposited in the unemployment insurance administration account but, until expended, must remain a part of the unemployment insurance fund.

(3) The department shall maintain a separate record of the deposit, obligation, expenditure, and return of funds deposited. If any money deposited is for any reason not to be expended for the purpose for which it was appropriated or if it remains unexpended at the end of the period specified by the law appropriating the money, it must be withdrawn and returned to the secretary of the treasury of the United States for credit to this state's account in the unemployment trust fund.

(4) An assessment equal to 0.13% of all taxable wages provided for in 39-51-1108 and 0.05% of total wages paid by employers not covered by an experience rating must be levied against and paid by all employers. All assessments and investment income must be deposited in the employment security account provided for in 39-51-409."

Renumber: subsequent sections

6. Page 10, line 2.

Strike: "medical provider"

Insert: "physician"

7. Page 10, line 3.

Strike: "medical provider"

Insert: "physician"

- END -

**Montana House of Representatives
Visitors Register**

BUSINESS & LABOR COMMITTEE

Date 10 JAN 25

Bill No. H.B. 77 Sponsor(s) MENDENHALL

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
KEITH KELLY	DEPT. OF LABOR/EMERGENCY	X		
Susan Good	Business Analysts	X w/ amendment		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

Montana House of Representatives Visitors Register

BUSINESS & LABOR COMMITTEE

Date 1/18/03

Bill No. 169 Sponsor(s) Krane

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

Montana House of Representatives Visitors Register

BUSINESS & LABOR COMMITTEE

Date _____

Bill No. 172 Sponsor(s) Call: K

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

**Montana House of Representatives
Visitors Register**

BUSINESS & LABOR COMMITTEE

Date _____

Bill No. 130 Sponsor(s) LEWIS

PLEASE PRINT		PLEASE PRINT	PLEASE PRINT		
Chandise Clifford		State Auditor	X		
Name and Address	Representing	Support	Oppose	Inf.	
Mary L. Williams, Hlth	AARP	X			
Betty Beverly	MSCH	X			
Leahy Jones	Liberty N.W.		X		
Gudy Linceford	Kalispell Regional Med Center	X			
Donald Miller	St. Patrick Hospital	X			
Bip Inglethorpe	111 N. 1st		X		
B. L. Olsen	MHA	X			
Jim Shelton	Bonanza Bank Co.	X			
Denise Pzy	New West Health		X		
Roger McGowan	IJAson		X		
Greg Van Arman	State Farm		X		
Margulies Bernmark	AIA; ACLI		X		
George Hood, Jnr	Mt. Self Service Area		X		
Bryant Carter	Farmers Ins. Corp.		X		
P. J. Malley	Mont. Medical Assn	X			
Frank Cate	MTIAA		X		
Jon Metropoulos	NAIIFIG		X		
William Good	orthopedics pres. the... ..	X			
Tami McCall	Deaconess Billings Chandise	X			

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

Tanya Bick
Nancy B. Miller
Sue Weingarten

BLBSMT
Int. State Fund
William...
Wm. Miller

✓ Supply
X
X
X

STATE AUDITOR'S OFFICE
Producer Licensing
HB 169

Purpose

This bill updates Montana's licensing statutes to comply with national uniform licensing standards and makes us reciprocal with other states; improves access for Montana resident licensed producers to license in other states; adds background examinations for residents; changes the renewal/continuing education reporting cycle from annual to biennial; and allows licenses to lapse when not renewed and adjusts fees accordingly.

Section Summaries

PRODUCER LICENSING

This bill clarifies limited lines credit licensing requirements and, at the request of adjusters, requires a licensing examination and application fee for licensing independent adjusters. It removes existing examination exemptions for licensure. All insurance producers will pass a licensing examination. Individual producer license renewal cycles will be changed to create a uniform cycle for all licenses.

SURETY

The bill more clearly defines the surety products that will be regulated, including the sale of commercial bail bonds.

SURPLUS LINES

To meet reciprocity requirements of the Gramm-Leach-Bliley Act, this bill dispenses with the requirement that a surplus lines producer file a bond (\$10,000) with the state of Montana. It also changes the renewal date of the surplus lines license to coincide with that of other licensed insurance producers.

FEES

Fees have been changed from an annual to a biennial renewal cycle. Fees have not been increased, except for the addition of a license reinstatement fee, which is double the renewal fee. There will be a new license fee of \$50 for adjusters. The car rental entity license is a new license with a \$100 fee.

BACKGROUND CHECKS

To complete uniform licensing goals begun during the 2001 session, background checks will be necessary. More than 20 states also require fingerprint/criminal background checks. Ten additional states have similar pending legislation. When Montana insurance producers apply to other states for licenses as non-resident producers, they will be required to meet that state's background check requirements. Without this legislation, Montana producers potentially will have to complete several background checks (one for each state) rather than completing one in Montana that will be accepted by all other states. This proposal will protect Montana producers from undue expense and regulation.

LICENSE RENEWAL/FILING CE CREDITS

Resident producers will file continuing education credits on a 24-month cycle rather than a 12-month cycle. Residents will continue to be exempt from the CE filing fee provided filings are completed on time. Continuing education credit requirements will change from the current annual requirements of 10 hours (single line) and 15 hours (multiple lines) to a universal 24 hours per 24-month filing period. Credit life/disability licensees will receive a limited lines credit license with the same continuing education filing requirements of five credits in 24 months.

Non-resident renewals will be filed on a 24-month cycle rather than annually. The filing fee will increase from \$10 annually to \$50 biennially. This increase covers the cost of processing the filings and is more in line with other states' requirements. Other states' renewal fees range from \$40 to \$120 biennially. Late filing fees of \$20 annually will cease.

Current statute requires the Commissioner to terminate licenses that have not been renewed and impose a 12-month waiting period before they can be reissued. The proposed legislation will create a lapsed license that may be reinstated any time during the subsequent 12 months.

Montana producers will benefit through Montana's uniformity with other states in the number of continuing education hours required and the 24-month reporting cycle. They will have improved access to courses and more time to accrue credits.

RULEMAKING AUTHORITY

The Commissioner requests rulemaking authority to implement the changes in the renewal/continuing education filing, renewal cycle timing, lapsing of producer licenses, car rental entity licensing and changing fee collection from an annual to a biennial cycle.

LICENSE SUMMARY

(P/C is property and casualty insurance)

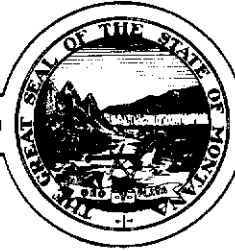
LICENSE	LICENSE REQUIRED		EXAM REQUIRED		CE REQUIRED		LICENSE FEE REQUIRED		REINSTATE FEE		CE/RENEWAL FEE	
	NOW	NEW	NOW	NEW	NOW	NEW	NOW	NEW	NOW	NEW	NOW	NEW
Non-Res Producer	Yes	Yes	No*	No*	No*	No*	Yes	Yes	NA	Yes	Yes	Yes
Resident Producer	Yes	Yes	Yes	Yes	Yes	Yes	No	No	NA	Yes	No	No
Adjuster	No	Yes	No	Yes	No	Yes	No	Yes	NA	Yes	No	Yes
Consultant	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	NA	Yes	Yes	Yes
Surplus Lines	Yes	Yes	P/C	P/C	Yes	Yes	Yes	Yes	NA	Yes	Yes	Yes

*Must meet home state requirements.

1/6/03

DEPARTMENT OF ADMINISTRATION
DIVISION OF BANKING AND FINANCIAL INSTITUTIONS

EXHIBIT 9
DATE 1-10-03
HB 169



JUDY H. MARTZ
GOVERNOR

ANNIE M. GOODWIN
COMMISSIONER

STATE OF MONTANA

301 SOUTH PARK, SUITE 316
PO BOX 200546
HELENA MT 59620

(406) 841-2920
(406) 841-2930 FAX

HOUSE BUSINESS AND LABOR COMMITTEE

HB 45 – REVISE LICENSING REQUIREMENTS FOR ESCROW COMPANIES –
SPONSOR BOB LAWSON

SECTION 1, PAGES 1 AND 2

1. The first change to existing law would require that licensed escrow businesses possess a \$100,000 bond guaranteeing that the business will be operated in compliance with the law. All bonds would have to be filed with and approved by the Department and renewed annually.

RATIONALE

The Act does not currently require that regulated escrow businesses be bonded. Montana consumers financially harmed by the operation of an escrow business have few options under present law other than to initiate legal proceedings against the business itself. Any financial recovery under present law would be dependent on the net worth of the offending escrow business.

Requiring the bonding of these businesses would assure that there are some guaranteed assets available to consumers harmed by an escrow operation. It would also provide consumers with a simpler process of seeking recovery.

SECTION 2, PAGE 2

2. The second change to existing law would require that escrow business licenses be renewed annually. The annual license renewal fee would be \$100 and failure to pay the renewal fee would result in automatic revocation of the license.

RATIONALE

Escrow businesses currently pay a one-time licensing fee of \$350 and the licenses are valid for the life of the business. Annual license renewals will help assure that the Department has sufficient resources to effectively exercise its supervisory responsibilities. Annual license renewals will also provide the Department with the opportunity to regularly review an escrow business' qualifications for licensure.

SECTION 3, PAGES 2 AND 3

3. The third and final change to existing law would require escrow businesses to make required payments of funds within 5 days of their receipt of those funds.

RATIONALE

There is no language in existing law which would require that escrow funds be paid from one party to another within a specific time period. The Department is proposing to require such payment within 5 days of when those funds are available for payment.

Contact Person

Annie M. Goodwin, Commissioner
Division of Banking and Financial Institutions
Department of Administration
841-2920

Proposed Amendment to HB 45

By: Department of Administration

1. Title, line 7.

Strike: "\$100,000"

2. Title, Line 7.

Following: "BOND"

Insert: "IN AN AMOUNT TO BE SET BY THE DEPARTMENT BY
ADMINISTRATIVE RULE"

3. Page 1, line 29.

Strike: "the amount of \$100,000"

Insert: "an amount to be set by the department by administrative rule"

Contact: Annie M. Goodwin, Commissioner
Division of Banking and Financial Institutions
Department of Administration
841-2920

HOUSE OF REPRESENTATIVES

Roll Call Vote

BUSINESS AND LABOR COMMITTEE

DATE 1-14-03 BILL NO 165 MOTION NO. _____

MOTION: _____

Do Pass

NAME	AYE	NO	ABSENTEE
REP. JOE McKENNEY, CHAIR.	✓		
REP. DON STEINBEISSER, VICE CHAIR MAJORITY	✓		
REP. JIM KEANE, VICE CHAIR MINORITY	✓		
REP. BOB BERGREN	✓		
REP. ROD BITNEY		✓	
REP. SYLVIA BOOKOUT- REINICKE		✓	
REP. NANCY RICE FRITZ		✓	
REP. DAVE GALLIK		✓	
REP. KATHLEEN GALVIN- HALCRO	✓		
REP. RAY HAWK		✓	
REP. BOB LAWSON	✓		
REP. RICK MAEDJE	✓		
REP. GARY MATTHEWS	✓		
REP. SCOTT MENDENHALL		✓	
REP. PENNY MORGAN	✓		
REP. ALLEN ROME		✓	
REP. SANDY WEISS	✓		
REP. BILL WILSON		✓	



HOUSE STANDING COMMITTEE REPORT

January 14, 2003

Page 1 of 1

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **House Bill 162** (first reading copy -- white) **do pass**.

Signed: _____

Representative Joe McKenney, Chair

- END -

Committee Vote:
Yes 18, No 0.

071356SC.hhn

1-14-03
3:25



HOUSE STANDING COMMITTEE REPORT

January 14, 2003

Page 1 of 1

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **House Bill 104** (first reading copy -- white) **do pass**.

Signed: _____

Representative Joe McKenney, Chair

- END -

Committee Vote:

Yes 18, No 0.

071357SC.hhn

1-14-03
3:25
28



HOUSE STANDING COMMITTEE REPORT

January 14, 2003

Page 1 of 1

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **House Bill 230** (first reading copy -- white) do pass as amended.

Signed: _____

Representative Joe McKenney, Chair

And, that such amendments read:

1. Page 2, line 3.

Following: "period"

Insert: "and the employer does not pay the employee within the 10-day period provided for in subsection (1) "

2. Page 2, line 4.

Following: "period."

Insert: "An employer may not withhold payment of the employee's wages beyond the next ensuing pay period. If there is not an established time period or time when wages are due and payable, the pay period is presumed to be semimonthly in length."

- END -

Committee Vote:

Yes 18, No 0.

071347SC.hhn

1-14-03
3:25 PM



HOUSE STANDING COMMITTEE REPORT

January 14, 2003

Page 1 of 1

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **House Bill 183** (first reading copy -- white) do pass as amended.

Signed: _____

Joe McKenney
Representative Joe McKenney, Chair

And, that such amendments read:

1. Page 5, line 6.

Strike: "actually mailed"

Insert: "issued"

2. Page 6, line 6.

Strike: "provide"

Insert: "issue"

3. Page 6, line 21.

Strike: "and"

Insert: "(c) certification of the date of issuance of the certificate specified on the form; and"

Renumber: subsequent subsection

4. Page 6, line 25.

Strike: "the mailing"

Insert: "issuance"

- END -

Committee Vote:

Yes 18, No 0.

071345SC.hhn

1-14-03
3:25



HOUSE STANDING COMMITTEE REPORT

January 14, 2003

Page 1 of 2

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **House Bill 169** (first reading copy -- white) do pass as amended.

Signed: _____

Representative Joe McKenney, Chair

And, that such amendments read:

1. Title, line 13.

Strike: "33-1-211,"

2. Page 2, line 2.

Strike: "at the applicant's own cost"

Following: "examination."

Insert: "The applicant or insurer shall pay the cost of the background application."

3. Page 3, line 14 through page 4, line 12.

Strike: section 6 in its entirety

Renumber: subsequent sections

4. Page 11, line 26.

Strike: "or"

5. Page 11, line 29.

Strike: "."

Insert: ";

6. Page 11, following line 29.

Insert: "(8) a person whose activities in this state are limited

Committee Vote:

Yes 18, No 0.

071352SC.hhn

1-14-03
3:25

to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of this state if the person does not sell, solicit, or negotiate insurance contracts with respect to risks located in this state; or

(9) a person who is not a resident of this state who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks with respect to an insured with risks located in more than one state that are insured under the contract if the person is licensed in the state where the insured maintains its principal place of business and the contract insures risks located in that state."

7. Page 12, line 3.

Strike: "For subjects of insurance resident, located, or to be performed in this state, a"

Insert: "A"

8. Page 12, line 4.

Following: "producer"

Insert: "in this state"

9. Page 25, line 3.

Following: "[section"

Strike: "8"

Insert: "7"

10. Page 25, line 4.

Following: the first "Section"

Strike: "8"

Insert: "7"

- END -



HOUSE STANDING COMMITTEE REPORT

January 14, 2003

Page 1 of 1

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **House Bill 159** (first reading copy -- white) do pass as amended.

Signed: _____

Representative Joe McKenney Chair

And, that such amendments read:

1. Page 12, line 10.

Following: "who is"

Strike: "not"

- END -

Committee Vote:

Yes 18, No 0.

071344SC.hhn

1-14-03
3:25



HOUSE STANDING COMMITTEE REPORT

January 14, 2003

Page 1 of 1

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **House Bill 165** (first reading copy -- white) **do pass**.

Signed: _____

Joe McKenney
Representative Joe McKenney, Chair

- END -

Committee Vote:
Yes 10, No 8.

071355SC.hhn

1-14-03
3:25

Montana House of Representatives Visitors Register

BUSINESS & LABOR COMMITTEE

Date _____

Bill No. HB 98 Sponsor(s) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

[illegible]

SEE HB174,
NEWSPAPERS -
INCORRECT?

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

Visitors Register

BUSINESS & LABOR COMMITTEE

Date _____

Bill No. HB 110 Sponsor(s) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

HOUSE OF REPRESENTATIVES

Business + Labor Committee

WITNESS STATEMENT

PLEASE PRINT

NAME Terry Krantz **BUDGET** HB 159

ADDRESS _____ DATE 1/14/03

WHOM DO YOU REPRESENT? Dept of Public Health and Human Serv

SUPPORT: X **OPPOSE** **AMEND**

COMMENTS:

[illegible]

STATE AUDITOR'S OFFICE
Producer Licensing
HB 169

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 4

DATE 3/13/03

BILL NO. HB 169

from Jill Gerdrum

HB 169

- Updates Montana's licensing statutes to comply with national uniform licensing standards.
- Improves accessibility for Montana-resident licensed producers to license in other states.
- Adds background examinations for residents.
- Changes the renewal/continuing education reporting cycle from an annual to a biennial cycle.
- Allows licenses to lapse when not renewed and adjusts fees accordingly.

Details

- Individual producer license renewal cycles are adjusted to create a uniform cycle for all licenses. This advances Montana's move toward national standards for producer licensing uniformity and reciprocity.
- The renewal process is simplified for Montana-resident and non-resident producers, by changing it from an annual to a biennial cycle. HB 169 increases renewal fees for **non-residents** by \$15 per year, making the fees more consistent with those of neighboring states. The bill allows a producer to reinstate a lapsed license without observing the current 12-month waiting period. Late filing fees are eliminated.
- HB 169 allows producers to "park" their licenses in an inactive status while they serve active military duty. It exempts the producers from having to file continuing education credits or renewing their licenses until they return home.
- HB 169 eliminates the requirement that a surplus lines producer file a \$10,000 bond with the state of Montana.
- Criminal and employment background checks for producers are proposed to complete uniform licensing goals initiated during the 2001 Legislature.

Answers to Frequently Asked Questions about HB 169

- It does **not** raise resident producer's fees for applications or continuing education credits.
- It does **not** use fees collected by the Insurance Department for any purpose not outlined in statute.
- It does **not** require companies to pay renewal fees for non-residents.
- It does **not** directly influence premium rates filed by insurance companies.

STATE AUDITOR'S OFFICE
Producer Licensing
HB 169

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 4

DATE 3/13/03

BILL NO. HB 169

from Jill Gerdrum

HB 169

- Updates Montana's licensing statutes to comply with national uniform licensing standards.
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- It does **not** use fees collected by the Insurance Department for any purpose not outlined in statute.
- It does **not** require companies to pay renewal fees for non-residents.
- It does **not** directly influence premium rates filed by insurance companies.

Montana law - Steve suggests exempting CFPs along with CPAs and attorneys

Per HB 169 Section 17 (Hearing scheduled 3/13 Sen Business & Labor)

"33-17-502. Prohibition on holding out as consultant -- receiving fee. (1) A person not licensed as an insurance consultant in this state who identifies or represents to the public that the person is an insurance consultant without having been licensed as an insurance consultant under this part or a person who uses any other designation or title that is likely to mislead the public and represents to the public that the person has particular insurance qualifications other than those for which the person may be otherwise licensed or otherwise qualified is guilty of a misdemeanor and upon conviction shall be fined \$1,500 may be fined pursuant to 33-1-317.

(2) A person not licensed as an insurance consultant with respect to the relevant kinds of insurance who receives a fee for examining, appraising, reviewing, or evaluating any insurance policy, annuity or pension contract, plan, or program or who makes recommendations or gives advice with regard to any insurance policy, annuity or pension contract, plan, or program without first having been licensed by the commissioner as an insurance consultant is guilty of a misdemeanor and upon conviction shall be fined \$1,500 may be fined pursuant to 33-1-317.

(3) This part does not apply to:

(a) licensed attorneys at law in this state acting in their professional capacity; or

(b) an actuary or a certified public accountant **OR CERTIFIED FINANCIAL PLANNER** who provides information, recommendations, advice, or services in a professional capacity if neither the actuary nor the certified public accountant **NOR CERTIFIED FINANCIAL PLANNER** or the actuary's or certified public accountant's **OR CERTIFIED FINANCIAL PLANNER'S** employer receives any compensation directly or indirectly on account of any insurance, bond, annuity or pension contract that results in whole or part from that information, recommendation, advice, or services."

Rationale: Certified Financial Planners, when performing a comprehensive financial plan, are required by their code of ethics to consider the appropriateness of their client's insurance coverage. The qualifications to be a CFP are roughly comparable to those of a CPA and include specific requirements for the study of insurance.

-Steve Hample ph 587-4300 fax 587-1562 sh@avicom.net
300 North Willson, Suite 202B Bozeman, MT 59715



SENATE STANDING COMMITTEE REPORT

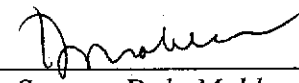
March 13, 2003

Page 1 of 1

Mr. President:

We, your committee on **Business and Labor** recommend that **House Joint Resolution 20** (third reading copy -- blue) **be concurred in.**

Signed: _____


Senator Dale Mahlum, Chair

To be carried by Senator Ken (Kim) Hansen

- END -

Committee Vote:

Yes 8, No 0.

531059SC.ssc

5/10



SENATE STANDING COMMITTEE REPORT

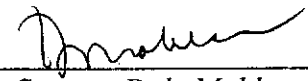
March 13, 2003

Page 1 of 1

Mr. President:

We, your committee on **Business and Labor** recommend that **House Joint Resolution 20** (third reading copy -- blue) **be concurred in.**

Signed: _____


Senator Dale Mahlum, Chair

To be carried by Senator Ken (Kim) Hansen

- END -

Committee Vote:

Yes 8, No 0.

531059SC.ssc

SM



SENATE STANDING COMMITTEE REPORT

March 13, 2003

Page 1 of 1

Mr. President:

We, your committee on **Business and Labor** recommend that **House Bill 165** (third reading copy -- blue) be concurred in.

Signed: _____

A handwritten signature in dark ink, appearing to read "D. Mahlum", written over a horizontal line.

Senator Dale Mahlum, Chair

To be carried by Senator Dale Mahlum

- END -

Committee Vote:
Yes 5, No 3.

531105SC.ssc

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SENATE STANDING COMMITTEE REPORT

March 13, 2003

Page 1 of 1

Mr. President:

We, your committee on **Business and Labor** recommend that **House Bill 165** (third reading copy -- blue) **be concurred in.**

Signed: _____

A handwritten signature in dark ink, appearing to read "D. Mahlum", is written over a horizontal line.

Senator Dale Mahlum, Chair

To be carried by Senator Dale Mahlum

- END -

Committee Vote:
Yes 5, No 3.

531105SC.ssc

Handwritten initials, possibly "SM", in the bottom right corner.

MONTANA SENATE
2003 LEGISLATURE
BUSINESS AND LABOR COMMITTEE
ROLL CALL VOTE

DATE: 3/13/03

BILL NO. HJ 20

MOTION:

Sen. Gebhardt moved that HJ 20 be concurred in. Motion carried 8-0.

[illegible]

ROLL CALL VOTE

DATE: 3-13-03

BILL NO. HB165

MOTION:

Sen. Gebhardt moved that HB165 be concurred in. Motion carried 5-3.

[illegible]

DATE Thursday March 13, 2003

SENATE COMMITTEE ON Business and Labor

BILLS BEING HEARD TODAY: HB 145, HB 169, HJ 20

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Don Roberts	442 0999	HD 10	HJ 20		
Roger McElwain	442 9555	IIA	HB 169 HB 145	X X	
Greg Van Natta	2-0230	State Farm Ins. Co.	HB 145		
ROBIN CUNNINGHAM	763 5436	SELF	HJ 20	X	
Jacqueline Denmark	2-0230	Am. Ins. Assn	HB 145 HB 169	and and	
Jacqueline Denmark	2-0230	Am. Council Life Ins	HB 145 HB 169	and and	
Julian Wipke	594-0509	MT Comprehensive Health Assoc	HB 145	X and	
Don Allen	443-7531	MAITFA	HB 145 HB 169	and ✓	
Kewin Brown	4658	mt DOLI	HJ 20		
Stuart Duggett		Blue Cross / Blue Shield Montana	HB 145	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

**MONTANA SENATE
2003 LEGISLATURE
BUSINESS & LABOR COMMITTEE
ATTENDANCE**

DATE: *March 18, 2003*

NAME	PRESENT	EXCUSED	ABSENT
SENATOR DALE MAHLUM, CHAIR	✓		
SENATOR MIKE SPRAGUE, VICE CHAIR	✓		
SENATOR SHERM ANDERSON	✓		
SENATOR VICKI COCCHIARELLA	✓		
SENATOR KELLY GEBHARDT	✓		
SENATOR BOB KEENAN		✓	
SENATOR SAM KITZENBERG	✓		
SENATOR KEN HANSEN	✓		
SENATOR GLENN ROUSH	✓		
SENATOR DON RYAN	✓		
SENATOR CAROLYN SQUIRES	✓		
SENATOR FRED THOMAS		✓	



SENATE STANDING COMMITTEE REPORT

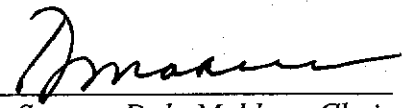
March 18, 2003

Page 1 of 1

Mr. President:

We, your committee on **Business and Labor** recommend that **House Bill 182** (third reading copy -- blue) be concurred in.

Signed: _____


Senator Dale Mahlum, Chair

To be carried by Senator Sherm Anderson

- END -

Committee Vote:
Yes 9, No 0.

571418SC.ssc





SENATE STANDING COMMITTEE REPORT

March 18, 2003

Page 1 of 5

Mr. President:

We, your committee on **Business and Labor** recommend that **Senate Bill 385** (first reading copy -- white) **do pass as amended.**

Signed: _____

A handwritten signature in cursive script, appearing to read "D. Mahlum".

Senator Dale Mahlum, Chair

And, that such amendments read:

1. Title, page 1, line 13.

Strike: "DEDUCTIBLE"

Insert: "EXCLUDED FROM GROSS INCOME"

2. Title, page 1, line 14.

Following: "15-30-111,"

Insert: "15-31-113,"

3. Page 1, line 19.

Strike: "4"

Insert: "6"

4. Page 1, line 25 through page 2, line 4.

Following: "a business" on line 25

Strike: remainder of line 25 through "(4)(e)." on page 2, line 4

Insert: "whose principal headquarters is located in Montana, that is projected to have at least 35% of its employees located in Montana for the following 3 years, and that is estimated within 3 years to:

(a) receive at least 70% of its gross revenue from sources outside the state of Montana; or

(b) be a manufacturing company with at least 70% of its sales to other Montana companies that have 70% of sales from sources outside Montana."

5. Page 2, line 9.

Following: "company"

Committee Vote:

Yes 7, No 2.

571422SC.ssc

SN

Insert: ", corporation, or partnership"

6. Page 2, lines 12 and 13.

Following: "department." on line 12

Strike: remainder of line 12 through "body." on line 13

Insert: "In determining whether a capital investment fund has professional management, the department shall consider the experience of the investment manager related to the venture capital industry. The department may only approve individuals or companies with demonstrated expertise and success in the management of investments in venture capital funds."

7. Page 2, line 17.

Following: line 16

Insert: "(4) The capital investment fund shall pay to the department an annual fee of 0.75% of initial capitalization or \$50,000, whichever is less, for administration of [sections 1 through 6] as long as the total of the fees, assessed annually to all funds, does not exceed \$65,000 in the aggregate."

8. Page 2, line 19.

Following: the first "in"

Insert: "unrelated"

Following: "Montana"

Insert: "that do not displace other sources of equity or debt financing that are included in the balance sheet of the company unless the department determines the investment furthers the purposes of this chapter"

9. Page 2, line 21.

Following: "made"

Insert: "and allocated as provided in [section 2(3)]"

10. Page 2, line 23.

Following: "---"

Insert: "disallowance and"

11. Page 2, lines 24 through 26.

Following: "fund" on line 24

Strike: remainder of line 24 through "taken" on line 26

Insert: "may claim their allocated share of the tax credit provided in [section 3]"

Strike: "investor" on line 26

Insert: "members"

12. Page 2, line 28.

Strike: "subsection (1)"

Insert: "[section 3]"

Strike: "taxpayer's"

Insert: "member's"

13. Page 2, line 30.

Following: "exceeds the"

Strike: "taxpayer's"

Insert: "member's"

14. Page 3, lines 8 through 12.

Following: "(3)" on line 8

Strike: remainder of line 8 through "credit." on line 12

Insert: "The credit provided in [section 3] is subject to
disallowance and recapture as follows:

(a) The credit is disallowed in the tax year claimed if:

(i) the credit is claimed for investment in a business
that:

(A) is not engaged in one or more of the required
activities; or

(B) the department determines could not reasonably have
been estimated to make at least 70% of its gross revenue from
sources outside of Montana; or

(ii) a member of the capital investment fund and the
business bear a relationship described in section 267(b) of the
Internal Revenue Code, 26 U.S.C. 267(b).

(b) If a business in which an investment was made does not
make at least 70% of its gross revenue from sources outside of
Montana during any tax year on or after the tax year in which the
credit was claimed, in the tax year of the capital investment
fund ending on or after that tax year of business, the capital
investment fund must:

(i) reduce, but not below zero, the amount of any credit to
which it is otherwise entitled for the tax year by an amount
equal to the credit claimed for the business that did not make at
least 70% of its gross revenue from sources outside of Montana,
multiplied by a fraction, the numerator of which is 70 minus the
percent of its gross revenue from sources outside of Montana and
the denominator of which is 100 or the recaptured amount;

(ii) include in income the recaptured amount minus the
credit reduction provided for in subsection (3)(b)(i); and

(iii) allocate the income provided for in subsection
(3)(b)(ii) to the members or their successors in the same
percentage the recaptured credit was allocated.

(c) The credit is disallowed if a capital investment fund
sells or otherwise transfers an interest in a primary sector
business for which a credit provided in [section 3] was claimed
within 2 years from the date of the investment."

15. Page 3, line 13.

Following: line 12

Insert: "NEW SECTION. Section 5. Reporting, recordingkeeping,

and examination. (1) Each approved capital investment fund shall report to the department on a quarterly basis:

(a) the name of each investor in the capital investment fund who is qualified to receive a tax credit and the amount of each investor's investment;

(b) the amount of any disbursement made to each investor in the capital investment fund;

(c) financial records of the capital investment fund, including an income statement and a balance sheet; and

(d) all qualified investments that the company has made since the last quarterly report, along with supporting documentation that the investment is a qualified investment, as described in [sections 1 through 6]. Supporting documentation must include information that confirms that at least 70% or more of the company's sales are from sources outside Montana.

(2) At least once each year, the department shall examine the books and affairs of each capital investment fund to determine if the capital investment fund is abiding by the purposes of [sections 1 through 6]. The cost of the annual review must be paid by each capital investment fund and the fees assessed must be commensurate with the costs of the department for conducting the review."

Insert: "NEW SECTION. Section 6. Conflict of interest -- arms-length transactions. A capital investment fund may not invest in any business venture in which the combined ownership of the business venture for all investors in the capital investment fund exceeds 20% at the time of the decision to invest."

Renumber: subsequent sections

16. Page 5, line 27.

Strike: "4"

Insert: "6"

17. Page 9, line 25.

Strike: "4"

Insert: "6"

18. Page 11, line 8.

Following: line 7

"Section 8. Section 15-31-113, MCA, is amended to read:

"15-31-113. Gross income and net income. (1) The term "gross income" means all income recognized in determining the corporation's gross income for federal income tax purposes and:

(a) including:

(i) interest exempt from federal income tax and exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code of 1986, as that section may be amended or renumbered;

(ii) the portion of gain from a liquidation of the reporting corporation not recognized for federal corporate income

tax purposes pursuant to sections 331 through 337 of the Internal Revenue Code, as those sections may be amended or renumbered, attributable to stockholders, either individual or corporate, not subject to Montana income or license tax under Title 15, chapter 30 or chapter 31, as appropriate, on the gain passing through to the stockholders pursuant to federal law; and

(b) excluding:

(i) gain recognized for federal tax purposes as a shareholder of a liquidating corporation pursuant to sections 331 through 337 of the Internal Revenue Code, as those sections may be amended or renumbered, when the gain is required to be recognized by the liquidating corporation pursuant to subsection (1)(a)(ii) of this section; and

(ii) net return on investments of a capital investment fund received pursuant to [sections 1 through 6].

(2) The term "net income" means the gross income of the corporation less the deductions set forth in 15-31-114.

(3) A corporation is not exempt from the corporation license tax unless specifically provided for under 15-31-101(3) or 15-31-102. Any corporation not subject to or liable for federal income tax but not exempt from the corporation license tax under 15-31-101(3) or 15-31-102 shall compute gross income for corporation license tax purposes in the same manner as a corporation that is subject to or liable for federal income tax according to the provisions for determining gross income in the federal Internal Revenue Code in effect for the taxable year."

Renumber: subsequent sections

19. Page 11, line 9 through page 13, line 18.

Strike: section 6 in its entirety

Renumber: subsequent sections

20. Page 23, line 25.

Strike: "4"

Insert: "6"

21. Page 23, line 27.

Strike: "4"

Insert: "6"

- END -



SENATE STANDING COMMITTEE REPORT

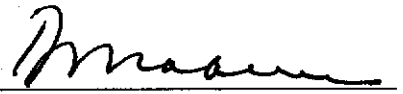
March 18, 2003

Page 1 of 7

Mr. President:

We, your committee on **Business and Labor** recommend that **House Bill 179** (third reading copy -- blue) be concurred in as amended.

Signed: _____


Senator Dale Mahlum, Chair

To be carried by Senator Rick Laible

And, that such amendments read:

1. Title, page 1, line 6.

Following: "CAPTIVE"

Insert: "AND BRANCH CAPTIVE"

2. Title, page 1, line 11.

Following: the first "INSURANCE"

Insert: ", PROPERTY INSURANCE, CASUALTY INSURANCE, LIFE INSURANCE, DISABILITY INCOME INSURANCE, AND HEALTH INSURANCE"

Following: "COVERAGE;"

Insert: "DEFINING "DISABILITY INCOME INSURANCE"; REQUIRING CAPTIVE INSURANCE COMPANIES TO FILE REPORTS WITH THE COMMISSIONER OF INSURANCE; REQUIRING CAPTIVE INSURANCE AND BRANCH BUSINESS COMPANIES TO PAY A TAX ON PREMIUMS;"

3. Title, page 1, line 13.

Following: "33-28-105,"

Insert: "33-28-107, 33-28-108, 33-28-201,"

4. Page 3, line 4.

Strike: "(1)"

Following: "a"

Insert: "sponsored"

5. Page 3, line 5.

Strike: "or"

Committee Vote:

Yes 8, No 0.

571443SC.ssc

SM

6. Page 3, line 6.

Following: "chapter"

Insert: ", or an insurance producer licensed under chapter 17 of this title and approved by the commissioner"

7. Page 3, line 7.

Following: line 6

Strike: subsection (2) in its entirety

8. Page 5, line 3.

Following: line 2

Insert: "NEW SECTION. Section 7. Disability income insurance. "Disability income insurance" means an individual or group policy of insurance that primarily provides payment to or for the benefit of the policyholder or certificate holder based, in whole or in part, upon lost wages or other earned income or business or financial losses as a result of an inability to work due to sickness, injury, or a combination of sickness and injury."

Renumber: subsequent sections

9. Page 5, line 10.

Following: "year"

Insert: "unless the 1-year requirement is waived by the commissioner"

10. Page 5, line 20.

Following: line 19

Insert: "(4) "Branch business" means any insurance business transacted by a branch captive insurance company in this state.

(5) "Branch captive insurance company" means any foreign captive insurance company licensed by the commissioner to transact the business of insurance in this state through a business unit with a principal place of business in this state.

(6) "Branch operations" means any business operations of a branch captive insurance company in this state."

Renumber: subsequent subsections

11. Page 5, line 23.

Following: line 22

Insert: "(8) "Cash equivalent" means any short-term, highly liquid investment that is:

(a) readily convertible to known amounts of cash; and

(b) so near to its maturity that it presents insignificant risk of changes in value because of changes in interest rates. Only an investment with an original maturity of 3 months or less qualifies as a cash equivalent."

Renumber: subsequent subsections

12. Page 5, line 26.

Following: line 25

Insert: "(10) "Foreign captive insurance company" means any captive insurance company formed under the laws of any jurisdiction other than this state."

Renumber: subsequent subsections

13. Page 7, line 10.

Following: "provide"

Strike: "property and casualty insurance"

Insert: "property insurance, casualty insurance, life insurance, disability income insurance, and health insurance coverage as defined in 33-22-140"

14. Page 7, line 21.

Following: "health"

Strike: "or" through "life"

Following: "insurance"

Insert: "coverage, unless the captive insurance company is a pure captive insurance company"

15. Page 10, lines 8 and 9.

Following: "\$750,000" on line 8

Strike: remainder of line 8 through "million" on line 9

Following: ";

Strike: "and"

16. Page 10, line 10.

Following: "million"

Insert: ";

(e) in the case of a branch captive insurance company, not less than the applicable amount of capital and surplus required in subsections (1) (a) through (1) (d), as determined based upon the organizational form of the foreign captive insurance company"

17. Page 10, line 13.

Following: "cash"

Insert: ", cash equivalent,"

18. Page 10, line 16.

Following: line 15

Insert: "(4) Despite the requirements of subsection (1), a captive insurance company organized as a reciprocal insurer under this chapter may not be issued a license unless it possesses and maintains unimpaired paid-in capital and surplus of \$1 million.

(5) In the case of a branch captive insurance company, security in an amount not less than the minimum capital and surplus required in this section must be jointly held by the commissioner and the branch captive insurance company in a bank

of the federal reserve system approved by the commissioner."

19. Page 12, line 20.

Following: line 19

Insert: "(10) With respect to a branch captive insurance company, the foreign captive insurance company shall petition and request that the commissioner issue a certificate that finds that, after considering the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors of the foreign captive insurance company, the licensing and maintenance of the branch operation will promote the general good of the state. The foreign captive insurance company may apply to the secretary of state for a certificate of authority to transact business in this state after the commissioner's certificate is issued."

20. Page 12, line 21.

Following: line 20

Insert: "Section 12. Section 33-28-107, MCA, is amended to read:

"33-28-107. **Reports and statements.** (1) A captive insurance company is not required to make an annual report except as provided in this section.

(2) (a) On or before March 1 of each year, each captive insurance company shall submit to the commissioner a report of its financial condition in a form and manner as required by the commissioner, verified by oath of two of its executive officers.

(b) Each captive insurance company shall report using generally accepted accounting principles, unless the commissioner requires the use of statutory accounting principles, with any necessary or useful modifications or additions required by the commissioner. The commissioner may also require the report to be supplemented by additional information.

(c) On or before March 1 of each year, each branch captive insurance company shall submit to the commissioner a copy of all reports and statements required to be filed under the laws in which the foreign captive insurance company is formed, verified by oath of two of its executive officers. If the commissioner is satisfied that the annual report filed by the foreign captive insurance company in its domiciliary jurisdiction provides adequate information concerning the financial condition of the foreign captive insurance, the commissioner may waive the requirement for completion of the captive annual statement for business written in the foreign jurisdiction."

Insert: "Section 13. Section 33-28-108, MCA, is amended to read:

"33-28-108. **Examinations and investigations.** (1) (a) At least once in 3 years, or more frequently if the commissioner considers it prudent, the commissioner or some competent person appointed by the commissioner shall visit each captive insurance company and thoroughly inspect and examine its affairs to

ascertain its financial condition, its ability to fulfill its obligations, and whether it has complied with the provisions of this chapter.

(b) The commissioner, upon application and in the commissioner's discretion, may enlarge the 3-year period to 5 years if the captive insurance company is:

- (i) subject to a comprehensive annual audit during the 5-year period of a scope satisfactory to the commissioner; and
- (ii) the audit is conducted by independent auditors approved by the commissioner.

(c) The expenses and charges of the examination must be paid to the commissioner by the company or companies examined.

(2) The provisions of Title 33, chapter 1, part 4, apply to examinations conducted under this section.

(3) Except as provided in subsection (4), all examination reports, preliminary examination reports or results, working papers, recorded information, documents, and their copies produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this section are confidential, are not subject to subpoena, and may not be made public by the commissioner or an employee or agent of the commissioner without the written consent of the company or upon court order.

(4) Subsection (3) does not prevent the commissioner from using information obtained pursuant to this section in furtherance of the commissioner's regulatory authority under Title 33. The commissioner may, in the commissioner's discretion, grant access to information obtained pursuant to this section to public officers having jurisdiction over the regulation of insurance in any other state or country or to law enforcement officers of this state or any other state or agency of the federal government at any time, as long as the officers receiving the information agree in writing to hold it in a manner consistent with this section.

(5)(a) Except as provided in subsection (5)(b), the provisions of this section apply to all business written by a captive insurance company.

(b) The examination for a branch captive insurance company may only be of branch business and branch operations if the branch captive insurance company has satisfied the requirements of 33-28-107(2)(c) to the satisfaction of the commissioner."

Insert: "Section 14. Section 33-28-201, MCA, is amended to read:

"33-28-201. Tax on premiums collected. (1) (a) Each captive insurance company shall pay to the commissioner, on or before March 1 of each year, a tax on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurance company in this state during the year ending December 31, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums, including dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

(b) The tax on direct premiums collected in this state must be calculated as follows:

- (i) 0.4% on the first 20 million dollars;
- (ii) 0.3% on the next 20 million dollars;
- (iii) 0.2% on the next 20 million dollars; and
- (iv) 0.075% on each subsequent dollar collected.

(2) (a) Each captive insurance company shall pay to the commissioner on or before March 1 of each year a tax on assumed reinsurance premiums.

(b) A reinsurance tax does not apply to premiums for risks or portions of risks that are subject to taxation on a direct basis pursuant to subsection (1).

(c) A reinsurance premium tax is not payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if the transaction is part of a plan to discontinue the operations of the other insurer and if the intent of the parties to the transaction is to renew or maintain the business with the captive insurance company.

(d) The amount of the reinsurance tax must be calculated as follows:

- (i) 0.225% on the first 20 million dollars of assumed reinsurance premiums;
- (ii) 0.150% on the next 20 million dollars of assumed reinsurance premiums; and
- (iii) 0.050% on each subsequent dollar of assumed reinsurance premiums.

(3) If the aggregate taxes to be paid by a captive insurance company calculated under subsections (1) and (2) amount to less than \$5,000 in any year, the captive insurance company shall pay a tax of \$5,000 for that year.

(4) Two or more captive insurance companies under common ownership and control must be taxed as though they were a single captive insurance company.

(5) For the purposes of this section, "common ownership and control" means:

(a) in the case of stock corporations, the direct or indirect ownership of 80% or more of the outstanding voting stock of two or more corporations by the same shareholder or shareholders; and

(b) in the case of mutual corporations, the direct or indirect ownership of 80% or more of the surplus and the voting power of two or more corporations by the same member or members.

(6) Only the branch business of a branch captive insurance company is subject to taxation under the provisions of this section."

Renumber: subsequent sections

21. Page 12, line 22.

Following: "The"

Insert: "definitions of property insurance provided in 33-1-210,

casualty insurance provided in 33-1-206, life insurance provided in 33-1-208, health insurance coverage provided in 33-22-140, and disability income insurance provided in [section 7], the"

22. Page 12, line 30.

Following: "instruction."

Insert: "(1)"

23. Page 13, line 3.

Following: line 2

Insert: "(2) [Section 7] is intended to be codified in Title 33, chapter 1, part 2, and the provisions of Title 33, chapter 1, part 2, apply to [section 7]."

"NEW SECTION. Section 17. Coordination instruction. If House Bill No. 145 is passed and approved and includes [section 5] defining "disability income insurance", then [section 7 of this act] is void and the reference to "[section 7]" in [section 15 of this act], amending 33-28-207, is changed to "[section 5 of House Bill No. 145]."

- END -



SENATE STANDING COMMITTEE REPORT

March 18, 2003

Page 1 of 1

Mr. President:

We, your committee on **Business and Labor** recommend that **House Bill 169** (third reading copy -- blue) be concurred in as amended.

Signed: _____

A handwritten signature in dark ink, appearing to read "D. Mahlum", is written over a horizontal line.

Senator Dale Mahlum, Chair

To be carried by Senator Vicki Cocchiarella

And, that such amendments read:

1. Title, page 1, line 15.

Following: "DATE AND"

Strike: "AN"

2. Title, page 1, line 16.

Strike: "DATE"

Insert: "DATES"

3. Page 2, line 3.

Strike: "APPLICATION"

Insert: "examination"

4. Page 27, line 5.

Following: "applicability."

Strike: "[This act]"

Insert: "(1) Except as provided in subsection (2), [this act]"

5. Page 27, line 7.

Following: line 6

Insert: "(2) [Section 2] applies to license applications postmarked on or after July 1, 2004."

- END -

Committee Vote:

Yes 9, No 0.

571444SC.ssc

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SENATE STANDING COMMITTEE REPORT

March 18, 2003

Page 1 of 1

Mr. President:

We, your committee on **Business and Labor** recommend that **House Bill 312** (third reading copy -- blue) **be concurred in.**

Signed: _____

A handwritten signature in cursive script, appearing to read "D. Mahlum", is written over a horizontal line.

Senator Dale Mahlum, Chair

To be carried by Senator Don Ryan

- END -

Committee Vote:

Yes 9, No 0.

571446SC.ssc

Handwritten initials, possibly "GR", are located in the bottom right corner of the page.

MONTANA SENATE
2003 LEGISLATURE

DATE: 18 March 2003 BILL NO. HB182

MOTION: Squires: Do concur; motion carried: 9-0

Senator Sherrn Andersen

[illegible]

MONTANA SENATE
2003 LEGISLATURE
BUSINESS AND LABOR COMMITTEE
ROLL CALL VOTE

DATE: 18 March 2003 BILL NO. 50385 : Amendment SB038501.aer

MOTION: Hansen: Do Pass ; Sprague: more amendment
Sprague: Do Pass on SB038501.aem

motion carried: 9-0

NAME	AYE	NO
SENATOR DALE MAHLUM, CHAIR	✓	
SENATOR MIKE SPRAGUE, VICE CHAIR	✓	
SENATOR SHERM ANDERSON	✓	
SENATOR VICKI COCCHIARELLA	✓	
* SENATOR KELLY GEBHARDT		
* SENATOR BOB KEENAN		
SENATOR SAM KITZENBERG	✓	
SENATOR KEN HANSEN	✓	
SENATOR GLENN ROUSH	✓	
SENATOR DON RYAN	✓	
SENATOR CAROLYN SQUIRES	✓	
* SENATOR FRED THOMAS		

* Excused; no proxy.

MONTANA SENATE
2003 LEGISLATURE
BUSINESS AND LABOR COMMITTEE
ROLL CALL VOTE

DATE: 18 March 2003 BILL NO. SB 385

MOTION: Sprague: Do Pass as amended

Motion carried: 7-2

NAME	AYE	NO
SENATOR DALE MAHLUM, CHAIR	✓	
SENATOR MIKE SPRAGUE, VICE CHAIR	✓	
SENATOR SHERM ANDERSON		✓
SENATOR VICKI COCCHIARELLA	✓	
* SENATOR KELLY GEBHARDT		
* SENATOR BOB KEENAN		
SENATOR SAM KITZENBERG		✓
SENATOR KEN HANSEN	✓	
SENATOR GLENN ROUSH	✓	
SENATOR DON RYAN	✓	
SENATOR CAROLYN SQUIRES	✓	
* SENATOR FRED THOMAS		

* Excused, no proxy

MONTANA SENATE
2003 LEGISLATURE
BUSINESS AND LABOR COMMITTEE
ROLL CALL VOTE

DATE: 18 March 2003 BILL NO. HB 312

MOTION: Cocchiarella: Do Concur; motion carried: 9-0

Senator Don Ryan to Carry

NAME	AYE	NO
SENATOR DALE MAHLUM, CHAIR	✓	
SENATOR MIKE SPRAGUE, VICE CHAIR	✓	
SENATOR SHERM ANDERSON	✓	
SENATOR VICKI COCCHIARELLA	✓	
* SENATOR KELLY GEBHARDT	✓	
* SENATOR BOB KEENAN		
SENATOR SAM KITZENBERG		
SENATOR KEN HANSEN	✓	
SENATOR GLENN ROUSH	✓	
SENATOR DON RYAN	✓	
SENATOR CAROLYN SQUIRES	✓	
* SENATOR FRED THOMAS		

* Excused; no proxy

MONTANA SENATE
2003 LEGISLATURE
BUSINESS AND LABOR COMMITTEE
ROLL CALL VOTE

DATE: 18 March 2003 BILL NO. HB 179; Amendment HB017901.aem

MOTION: Cocchiarella: Do concur; Cocchiarella: more amendment § HB017901.aem

Sprague: Do Pass on Amendment HB017901.aem/Carried 8-0

NAME	AYE	NO
SENATOR DALE MAHLUM, CHAIR	✓	
SENATOR MIKE SPRAGUE, VICE CHAIR	✓	
SENATOR SHERM ANDERSON	✓	
SENATOR VICKI COCCHIARELLA	✓	
* SENATOR KELLY GEBHARDT		
* SENATOR BOB KEENAN		
* SENATOR SAM KITZENBERG		
SENATOR KEN HANSEN	✓	
SENATOR GLENN ROUSH	✓	
SENATOR DON RYAN	✓	
SENATOR CAROLYN SQUIRES	✓	
* SENATOR FRED THOMAS		

* Excused; no proxy

MONTANA SENATE
2003 LEGISLATURE
BUSINESS AND LABOR COMMITTEE
ROLL CALL VOTE

DATE: 18 March 2003 BILL NO. HB 179 ~~18~~

MOTION: Cocchiarella: Do Concur as Amended

Motion Carried: 8-0

Senator Rick Liabe to Carry

NAME	AYE	NO
SENATOR DALE MAHLUM, CHAIR	✓	
SENATOR MIKE SPRAGUE, VICE CHAIR	✓	
SENATOR SHERM ANDERSON	✓	
SENATOR VICKI COCCHIARELLA	✓	
* SENATOR KELLY GEBHARDT		
* SENATOR BOB KEENAN		
* SENATOR SAM KITZENBERG		
SENATOR KEN HANSEN	✓	
SENATOR GLENN ROUSH	✓	
SENATOR DON RYAN	✓	
SENATOR CAROLYN SQUIRES	✓	
* SENATOR FRED THOMAS		

* Excused; no proxy

MONTANA SENATE
2003 LEGISLATURE
BUSINESS AND LABOR COMMITTEE
ROLL CALL VOTE

DATE: 18 March 2003 BILL NO. HB 169, Amendment HB016901.aem

MOTION: Cocchiarella: Do Concur; Sprague: move
HB016901.aem
Sprague: Do Pass HB016901.aem
Motion Carried: 9-0

NAME	AYE	NO
SENATOR DALE MAHLUM, CHAIR	✓	
SENATOR MIKE SPRAGUE, VICE CHAIR	✓	
SENATOR SHERM ANDERSON	✓	
SENATOR VICKI COCCHIARELLA	✓	
SENATOR KELLY GEBHARDT	✓	
SENATOR BOB KEENAN		
SENATOR SAM KITZENBERG		
SENATOR KEN HANSEN	✓	
SENATOR GLENN ROUSH	✓	
SENATOR DON RYAN	✓	
SENATOR CAROLYN SQUIRES	✓	
SENATOR FRED THOMAS		

* Excused; no proxy

MONTANA SENATE
2003 LEGISLATURE
BUSINESS AND LABOR COMMITTEE
ROLL CALL VOTE

DATE: 18 March 2003 BILL NO. HB 169 as amended

MOTION: Cocchiarella: Do Concur as amended

Motion carried: 9-0

Senator Vicki Cocchiarella to Carry

NAME	AYE	NO
SENATOR DALE MAHLUM, CHAIR	✓	
SENATOR MIKE SPRAGUE, VICE CHAIR	✓	
SENATOR SHERM ANDERSON	✓	
SENATOR VICKI COCCHIARELLA	✓	
SENATOR KELLY GEBHARDT	✓	
SENATOR BOB KEENAN		
SENATOR SAM KITZENBERG		
SENATOR KEN HANSEN	✓	
SENATOR GLENN ROUSH	✓	
SENATOR DON RYAN	✓	
SENATOR CAROLYN SQUIRES	✓	
SENATOR FRED THOMAS		

* Excused; no proxy

MONTANA SENATE
2003 LEGISLATURE
BUSINESS AND LABOR COMMITTEE
ROLL CALL VOTE

DATE: 18 March 2003 BILL NO. HB 145, Amendment

MOTION: Cocchiarella: Do Concur; Cocchiarella: move
amendment HB014501.aem
Sprague: DO Pass HB014501.aem
motion carried: 9-0

NAME	AYE	NO
SENATOR DALE MAHLUM, CHAIR	✓	
SENATOR MIKE SPRAGUE, VICE CHAIR	✓	
SENATOR SHERM ANDERSON	✓	
SENATOR VICKI COCCHIARELLA	✓	
SENATOR KELLY GEBHARDT	✓	
* SENATOR BOB KEENAN		
* SENATOR SAM KITZENBERG		
SENATOR KEN HANSEN	✓	
SENATOR GLENN ROUSH	✓	
SENATOR DON RYAN	✓	
SENATOR CAROLYN SQUIRES	✓	
* SENATOR FRED THOMAS		

* Excused; no proxy

MONTANA SENATE
2003 LEGISLATURE
BUSINESS AND LABOR COMMITTEE
ROLL CALL VOTE

DATE: 18 March 2003 BILL NO. HB 145 As Amended

MOTION: Gebhardt: Do Concur as Amended

motion carried: 9-0

Sen. Ken Hansen to Carry

NAME	AYE	NO
SENATOR DALE MAHLUM, CHAIR	✓	
SENATOR MIKE SPRAGUE, VICE CHAIR	✓	
SENATOR SHERM ANDERSON	✓	
SENATOR VICKI COCCHIARELLA	✓	
SENATOR KELLY GEBHARDT	✓	
* SENATOR BOB KEENAN		
* SENATOR SAM KITZENBERG		
SENATOR KEN HANSEN	✓	
SENATOR GLENN ROUSH	✓	
SENATOR DON RYAN	✓	
SENATOR CAROLYN SQUIRES	✓	
X SENATOR FRED THOMAS		

* Excused, no proxy

DATE Tuesday March 18

SENATE COMMITTEE ON Business and Labor

BILLS BEING HEARD TODAY: _____

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Tanya Azic	444-8297	BLISSMT Concern w/ the ^{the} Bill 2	HB 130		✓
John Morrison	444-2040	State Auditor	HB 130	✓	
Kevin Braum	4658	DOLI	HB 182		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE Tuesday March 18th

SENATE COMMITTEE ON Business and Labor

BILLS BEING HEARD TODAY: _____

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Bob Worthington	443 0907	NAI / IIA	HB130		X
Guadalupe Lemark	2-0230	Am. Council Life Insurers Am. Ins. Assn.	HB130		X
Don Judge	442-2968	Teachers Local 190	HB296	X	
STAN KALCZIK	443 6844	DNSF	HB 130		X
Jim Kembel	442-8684	MARIS MT ASSOC. OF REGISTERED LAND SURVEYORS	HB182	X	
Brad Griffin	555-5535	MT Retail Assoc Flathead Business & Industry	HB 130		X
Tom Ebzery	441-7531	SV, ST JAMES, HRH	HB130	X	
Barry Shang	442-6600	MCA	HB130		X
Sue Weingartner	3-1160	Alliance of American Insectors	HB130		X
Bonnie Adee	4-9669	Mentel Weeeth Ombudsman	HB130	X	
Don Metzger	2-8560	NAI / FI6	HB130		X
Mike Kelly	377-6551	WASH. CORP	HB130	information	
Steve Turkewicz	442-1233	Mr. Auto Dealers Assn	HB130		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Amendments to Senate Bill No. 385
1st Reading Copy

Requested by Senator Jeff Mangan

For the Senate Business and Labor Committee

Prepared by Eddye McClure
March 18, 2003 (1:17pm)

1. Title, page 1, line 13.

Strike: "DEDUCTIBLE"

Insert: "EXCLUDED FROM GROSS INCOME"

2. Title, page 1, line 14.

Following: "15-30-111,"

Insert: "15-31-113,"

3. Page 1, line 19.

Strike: "4"

Insert: "6"

4. Page 1, line 25 through page 2, line 4.

Following: "a business" on line 25

Strike: remainder of line 25 through "(4)(e)." on page 2, line 4

Insert: "whose principal headquarters is located in Montana, that is projected to have at least 35% of its employees located in Montana for the following 3 years, and that is estimated within 3 years to:

(a) receive at least 70% of its gross revenue from sources outside the state of Montana; or

(b) be a manufacturing company with at least 70% of its sales to other Montana companies that have 70% of sales from sources outside Montana."

5. Page 2, line 9.

Following: "company"

Insert: ", corporation, or partnership"

6. Page 2, lines 12 and 13.

Following: "department." on line 12

Strike: remainder of line 12 through "body." on line 13

Insert: "In determining whether a capital investment fund has professional management, the department shall consider the experience of the investment manager related to the venture capital industry. The department may only approve individuals or companies with demonstrated expertise and success in the management of investments in venture capital funds."

7. Page 2, line 17.

Following: line 16

Insert: "(4) The capital investment fund shall pay to the

department an annual fee of 0.75% of initial capitalization or \$50,000, whichever is less, for administration of [sections 1 through 6] as long as the total of the fees, assessed annually to all funds, does not exceed \$65,000 in the aggregate."

8. Page 2, line 19.

Following: the first "in"

Insert: "unrelated"

Following: "Montana"

Insert: "that do not displace other sources of equity or debt financing that are included in the balance sheet of the company unless the department determines the investment furthers the purposes of this chapter"

9. Page 2, line 21.

Following: "made"

Insert: "and allocated as provided in [section 2(3)]"

10. Page 2, line 23.

Following: "--"

Insert: "disallowance and"

11. Page 2, lines 24 through 26.

Following: "fund" on line 24

Strike: remainder of line 24 through "taken" on line 26

Insert: "may claim their allocated share of the tax credit provided in [section 3]"

Strike: "investor" on line 26

Insert: "members"

12. Page 2, line 28.

Strike: "subsection (1)"

Insert: "[section 3]"

Strike: "taxpayer's"

Insert: "member's"

13. Page 2, line 30.

Following: "exceeds the"

Strike: "taxpayer's"

Insert: "member's"

14. Page 3, lines 8 through 12.

Following: "(3)" on line 8

Strike: remainder of line 8 through "credit." on line 12

Insert: "The credit provided in [section 3] is subject to disallowance and recapture as follows:

(a) The credit is disallowed in the tax year claimed if:

(i) the credit is claimed for investment in a business

that:

(A) is not engaged in one or more of the required activities; or

(B) the department determines could not reasonably have been estimated to make at least 70% of its gross revenue from sources outside of Montana; or

(ii) a member of the capital investment fund and the business bear a relationship described in section 267(b) of the Internal Revenue Code, 26 U.S.C. 267(b).

(b) If a business in which an investment was made does not make at least 70% of its gross revenue from sources outside of Montana during any tax year on or after the tax year in which the credit was claimed, in the tax year of the capital investment fund ending on or after that tax year of business, the capital investment fund must:

(i) reduce, but not below zero, the amount of any credit to which it is otherwise entitled for the tax year by an amount equal to the credit claimed for the business that did not make at least 70% of its gross revenue from sources outside of Montana, multiplied by a fraction, the numerator of which is 70 minus the percent of its gross revenue from sources outside of Montana and the denominator of which is 100 or the recaptured amount;

(ii) include in income the recaptured amount minus the credit reduction provided for in subsection (3)(b)(i); and

(iii) allocate the income provided for in subsection (3)(b)(ii) to the members or their successors in the same percentage the recaptured credit was allocated.

(c) The credit is disallowed if a capital investment fund sells or otherwise transfers an interest in a primary sector business for which a credit provided in [section 3] was claimed within 2 years from the date of the investment."

15. Page 3, line 13.

Following: line 12

Insert: "NEW SECTION. **Section 5. Reporting, recordingkeeping, and examination.** (1) Each approved capital investment fund shall report to the department on a quarterly basis:

(a) the name of each investor in the capital investment fund who is qualified to receive a tax credit and the amount of each investor's investment;

(b) the amount of any disbursement made to each investor in the capital investment fund;

(c) financial records of the capital investment fund, including an income statement and a balance sheet; and

(d) all qualified investments that the company has made since the last quarterly report, along with supporting documentation that the investment is a qualified investment, as described in [sections 1 through 6]. Supporting documentation must include information that confirms that at least 70% or more of the company's sales are from sources outside Montana.

(2) At least once each year, the department shall examine the books and affairs of each capital investment fund to determine if the capital investment fund is abiding by the purposes of [sections 1 through 6]. The cost of the annual review must be paid by each capital investment fund and the fees assessed must be commensurate with the costs of the department for conducting the review."

Insert: "NEW SECTION. **Section 6. Conflict of interest -- arms-length transactions.** A capital investment fund may not invest in any business venture in which the combined ownership of

the business venture for all investors in the capital investment fund exceeds 20% at the time of the decision to invest."

Renumber: subsequent sections

16. Page 5, line 27.

Strike: "4"

Insert: "6"

17. Page 9, line 25.

Strike: "4"

Insert: "6"

18. Page 11, line 8.

Following: line 7

"Section 8. Section 15-31-113, MCA, is amended to read:

"15-31-113. Gross income and net income. (1) The term "gross income" means all income recognized in determining the corporation's gross income for federal income tax purposes and:

(a) including:

(i) interest exempt from federal income tax and exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code of 1986, as that section may be amended or renumbered;

(ii) the portion of gain from a liquidation of the reporting corporation not recognized for federal corporate income tax purposes pursuant to sections 331 through 337 of the Internal Revenue Code, as those sections may be amended or renumbered, attributable to stockholders, either individual or corporate, not subject to Montana income or license tax under Title 15, chapter 30 or chapter 31, as appropriate, on the gain passing through to the stockholders pursuant to federal law; and

(b) excluding:

(i) gain recognized for federal tax purposes as a shareholder of a liquidating corporation pursuant to sections 331 through 337 of the Internal Revenue Code, as those sections may be amended or renumbered, when the gain is required to be recognized by the liquidating corporation pursuant to subsection (1)(a)(ii) of this section; and

(ii) net return on investments of a capital investment fund received pursuant to [sections 1 through 6].

(2) The term "net income" means the gross income of the corporation less the deductions set forth in 15-31-114.

(3) A corporation is not exempt from the corporation license tax unless specifically provided for under 15-31-101(3) or 15-31-102. Any corporation not subject to or liable for federal income tax but not exempt from the corporation license tax under 15-31-101(3) or 15-31-102 shall compute gross income for corporation license tax purposes in the same manner as a corporation that is subject to or liable for federal income tax according to the provisions for determining gross income in the federal Internal Revenue Code in effect for the taxable year."

{ Internal References to 15-31-113:

a15-30-111 a15-30-111 x15-31-406* }

Renumber: subsequent sections

19. Page 11, line 9 through page 13, line 18.
Strike: section 6 in its entirety
Renumber: subsequent sections

20. Page 23, line 25.
Strike: "4"
Insert: "6"

21. Page 23, line 27.
Strike: "4"
Insert: "6"

- END -

Amendments to House Bill No. 179
3rd Reading Copy

Requested by Senator Vicki Cocchiarella

For the Senate Business and Labor Committee

Prepared by Eddye McClure
March 17, 2003 (5:58am)

1. Title, page 1, line 6.

Following: "CAPTIVE"

Insert: "AND BRANCH CAPTIVE"

2. Title, page 1, line 11.

Following: the first "INSURANCE"

Insert: ", PROPERTY INSURANCE, CASUALTY INSURANCE, LIFE
INSURANCE, DISABILITY INCOME INSURANCE, AND HEALTH
INSURANCE"

Following: "COVERAGE;"

Insert: "DEFINING "DISABILITY INCOME INSURANCE"; REQUIRING
CAPTIVE INSURANCE COMPANIES TO FILE REPORTS WITH THE
COMMISSIONER OF INSURANCE; REQUIRING CAPTIVE INSURANCE AND
BRANCH BUSINESS COMPANIES TO PAY A TAX ON PREMIUMS;"

3. Title, page 1, line 13.

Following: "33-28-105,"

Insert: "33-28-107, 33-28-108, 33-28-201,"

4. Page 3, line 4.

Strike: "(1)"

Following: "a"

Insert: "sponsored"

5. Page 3, line 5.

Strike: "or"

6. Page 3, line 6.

Following: "chapter"

Insert: ", or an insurance producer licensed under chapter 17 of
this title and approved by the commissioner"

7. Page 3, line 7.

Following: line 6

Strike: subsection (2) in its entirety

8. Page 5, line 3.

Following: line 2

Insert: "NEW SECTION. **Section 7. Disability income insurance.**
"Disability income insurance" means an individual or group policy
of insurance that primarily provides payment to or for the
benefit of the policyholder or certificate holder based, in whole
or in part, upon lost wages or other earned income or business or
financial losses as a result of an inability to work due to

sickness, injury, or a combination of sickness and injury."
Renumber: subsequent sections

9. Page 5, line 10.

Following: "year"

Insert: "unless the 1-year requirement is waived by the commissioner"

10. Page 5, line 20.

Following: line 19

Insert: "(4) "Branch business" means any insurance business transacted by a branch captive insurance company in this state.

(5) "Branch captive insurance company" means any foreign captive insurance company licensed by the commissioner to transact the business of insurance in this state through a business unit with a principal place of business in this state.

(6) "Branch operations" means any business operations of a branch captive insurance company in this state."

Renumber: subsequent subsections

11. Page 5, line 23.

Following: line 22

Insert: "(8) "Cash equivalent" means any short-term, highly liquid investment that is:

(a) readily convertible to known amounts of cash; and

(b) so near to its maturity that it presents insignificant risk of changes in value because of changes in interest rates. Only an investment with an original maturity of 3 months or less qualifies as a cash equivalent."

Renumber: subsequent subsections

12. Page 5, line 26.

Following: line 25

Insert: "(10) "Foreign captive insurance company" means any captive insurance company formed under the laws of any jurisdiction other than this state."

Renumber: subsequent subsections

13. Page 7, line 10.

Following: "provide"

Strike: "property and casualty insurance"

Insert: "property insurance, casualty insurance, life insurance, disability income insurance, and health insurance coverage as defined in 33-22-140"

14. Page 7, line 21.

Following: "health"

Strike: "or" through "life"

Following: "insurance"

Insert: "coverage, unless the captive insurance company is a pure captive insurance company"

15. Page 10, lines 8 and 9.

Following: "\$750,000" on line 8

Strike: remainder of line 8 through "million" on line 9

Following: "i"

Strike: "and"

16. Page 10, line 10.

Following: "million"

Insert: "; or

(e) in the case of a branch captive insurance company, not less than the applicable amount of capital and surplus required in subsections (1)(a) through (1)(d), as determined based upon the organizational form of the foreign captive insurance company"

17. Page 10, line 13.

Following: "cash"

Insert: ", cash equivalent,"

18. Page 10, line 16.

Following: line 15

Insert: "(4) Despite the requirements of subsection (1), a captive insurance company organized as a reciprocal insurer under this chapter may not be issued a license unless it possesses and maintains unimpaired paid-in capital and surplus of \$1 million.

(5) In the case of a branch captive insurance company, security in an amount not less than the minimum capital and surplus required in this section must be jointly held by the commissioner and the branch captive insurance company in a bank of the federal reserve system approved by the commissioner."

19. Page 12, line 20.

Following: line 19

Insert: "(10) With respect to a branch captive insurance company, the foreign captive insurance company shall petition and request that the commissioner issue a certificate that finds that, after considering the character, reputation, financial responsibility, insurance experience, and business qualifications of the officers and directors of the foreign captive insurance company, the licensing and maintenance of the branch operation will promote the general good of the state. The foreign captive insurance company may apply to the secretary of state for a certificate of authority to transact business in this state after the commissioner's certificate is issued."

20. Page 12, line 21.

Following: line 20

Insert: "**Section 12.** Section 33-28-107, MCA, is amended to read:
"**33-28-107. Reports and statements.** (1) A captive insurance company is not required to make an annual report except as provided in this section.

(2) (a) On or before March 1 of each year, each captive insurance company shall submit to the commissioner a report of its financial condition in a form and manner as required by the

commissioner, verified by oath of two of its executive officers.

(b) Each captive insurance company shall report using generally accepted accounting principles, unless the commissioner requires the use of statutory accounting principles, with any necessary or useful modifications or additions required by the commissioner. The commissioner may also require the report to be supplemented by additional information.

(c) On or before March 1 of each year, each branch captive insurance company shall submit to the commissioner a copy of all reports and statements required to be filed under the laws in which the foreign captive insurance company is formed, verified by oath of two of its executive officers. If the commissioner is satisfied that the annual report filed by the foreign captive insurance company in its domiciliary jurisdiction provides adequate information concerning the financial condition of the foreign captive insurance, the commissioner may waive the requirement for completion of the captive annual statement for business written in the foreign jurisdiction."

{ Internal References to 33-28-107:

x33-28-109 }"

Insert: "Section 13. Section 33-28-108, MCA, is amended to read:

"33-28-108. Examinations and investigations. (1) (a) At least once in 3 years, or more frequently if the commissioner considers it prudent, the commissioner or some competent person appointed by the commissioner shall visit each captive insurance company and thoroughly inspect and examine its affairs to ascertain its financial condition, its ability to fulfill its obligations, and whether it has complied with the provisions of this chapter.

(b) The commissioner, upon application and in the commissioner's discretion, may enlarge the 3-year period to 5 years if the captive insurance company is:

(i) subject to a comprehensive annual audit during the 5-year period of a scope satisfactory to the commissioner; and

(ii) the audit is conducted by independent auditors approved by the commissioner.

(c) The expenses and charges of the examination must be paid to the commissioner by the company or companies examined.

(2) The provisions of Title 33, chapter 1, part 4, apply to examinations conducted under this section.

(3) Except as provided in subsection (4), all examination reports, preliminary examination reports or results, working papers, recorded information, documents, and their copies produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this section are confidential, are not subject to subpoena, and may not be made public by the commissioner or an employee or agent of the commissioner without the written consent of the company or upon court order.

(4) Subsection (3) does not prevent the commissioner from using information obtained pursuant to this section in furtherance of the commissioner's regulatory authority under Title 33. The commissioner may, in the commissioner's discretion, grant access to information obtained pursuant to this section to

public officers having jurisdiction over the regulation of insurance in any other state or country or to law enforcement officers of this state or any other state or agency of the federal government at any time, as long as the officers receiving the information agree in writing to hold it in a manner consistent with this section.

(5)(a) Except as provided in subsection (5)(b), the provisions of this section apply to all business written by a captive insurance company.

(b) The examination for a branch captive insurance company may only be of branch business and branch operations if the branch captive insurance company has satisfied the requirements of 33-28-107(2)(c) to the satisfaction of the commissioner."

{Internal References to 33-28-108:

x33-28-109 }"

Insert: "Section 14. Section 33-28-201, MCA, is amended to read:

"33-28-201. Tax on premiums collected. (1) (a) Each captive insurance company shall pay to the commissioner, on or before March 1 of each year, a tax on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurance company in this state during the year ending December 31, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums, including dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

(b) The tax on direct premiums collected in this state must be calculated as follows:

- (i) 0.4% on the first 20 million dollars;
- (ii) 0.3% on the next 20 million dollars;
- (iii) 0.2% on the next 20 million dollars; and
- (iv) 0.075% on each subsequent dollar collected.

(2) (a) Each captive insurance company shall pay to the commissioner on or before March 1 of each year a tax on assumed reinsurance premiums.

(b) A reinsurance tax does not apply to premiums for risks or portions of risks that are subject to taxation on a direct basis pursuant to subsection (1).

(c) A reinsurance premium tax is not payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if the transaction is part of a plan to discontinue the operations of the other insurer and if the intent of the parties to the transaction is to renew or maintain the business with the captive insurance company.

(d) The amount of the reinsurance tax must be calculated as follows:

- (i) 0.225% on the first 20 million dollars of assumed reinsurance premiums;
- (ii) 0.150% on the next 20 million dollars of assumed reinsurance premiums; and
- (iii) 0.050% on each subsequent dollar of assumed reinsurance premiums.

(3) If the aggregate taxes to be paid by a captive insurance company calculated under subsections (1) and (2) amount

to less than \$5,000 in any year, the captive insurance company shall pay a tax of \$5,000 for that year.

(4) Two or more captive insurance companies under common ownership and control must be taxed as though they were a single captive insurance company.

(5) For the purposes of this section, "common ownership and control" means:

(a) in the case of stock corporations, the direct or indirect ownership of 80% or more of the outstanding voting stock of two or more corporations by the same shareholder or shareholders; and

(b) in the case of mutual corporations, the direct or indirect ownership of 80% or more of the surplus and the voting power of two or more corporations by the same member or members.

(6) Only the branch business of a branch captive insurance company is subject to taxation under the provisions of this section."

{Internal References to 33-28-201:

x33-2-708 x33-28-109 }

Renumber: subsequent sections

21. Page 12, line 22.

Following: "The"

Insert: "definitions of property insurance provided in 33-1-210, casualty insurance provided in 33-1-206, life insurance provided in 33-1-208, health insurance coverage provided in 33-22-140, and disability income insurance provided in [section 7], the"

22. Page 12, line 30.

Following: "instruction."

Insert: "(1)"

23. Page 13, line 3.

Following: line 2

Insert: "(2) [Section 7] is intended to be codified in Title 33, chapter 1, part 2, and the provisions of Title 33, chapter 1, part 2, apply to [section 7]."

"NEW SECTION. Section 17. Coordination instruction. If House Bill No. 145 is passed and approved and includes [section 5] defining "disability income insurance", then [section 7 of this act] is void and the reference to "[section 7]" in [section 15 of this act], amending 33-28-207, is changed to "[section 5 of House Bill No. 145]."

- END -

Amendments to House Bill No. 169
3rd Reading Copy

Requested by Representative Jim Keane

For the Senate Business and Labor Committee

Prepared by Eddye McClure
March 17, 2003 (8:19am)

1. Title, page 1, line 15.

Following: "DATE AND"

Strike: "AN"

2. Title, page 1, line 16.

Strike: "DATE"

Insert: "DATES"

3. Page 2, line 3.

Strike: "APPLICATION"

Insert: "examination"

4. Page 27, line 5.

Following: "applicability."

Strike: "[This act]"

Insert: "(1) Except as provided in subsection (2), [this act]"

5. Page 27, line 7.

Following: line 6

Insert: "(2) [Section 2] applies to license applications
postmarked on or after July 1, 2004."

- END -

Amendments to House Bill No. 145
3rd Reading Copy

Requested by Representative Joe McKenney

For the Senate Business and Labor Committee

Prepared by Eddye McClure
March 17, 2003 (8:39am)

1. Page 17, line 22.

Following: "fee"

Strike: "of \$50"

Insert: "pursuant to 33-2-708"

Strike: "deposit with"

Insert: "forward to"

Strike: "credited"

2. Page 17, line 23.

Following: "general"

Insert: "deposited"

3. Page 17, lines 24 and 25.

Following: "(2)" on line 24

Strike: remainder of line 24 through "terminated" on line 25

Insert: "A consultant license continues in force until lapsed, suspended, revoked, or terminated"

4. Page 28, line 8.

Following: "funding."

Insert: "The association may not adopt a reduced premium rate schedule unless it has secured federal, state, or private funding specifically for that purpose and the use of the reduced premium rate schedule is limited to the available federal, state, or private funding."

5. Page 39, line 8.

Following: line 7

"NEW SECTION. Section 54. Coordination instruction. If both House Bill No. 169 and [this act] are both passed and approved and if both amend 33-17-503, then [section 18 of House Bill No. 169], amending 33-17-503, is void."

- END -